



CITY OF ALAMEDA • CALIFORNIA

SPECIAL MEETING OF THE CITY COUNCIL
TUESDAY - - - AUGUST 2, 2005 - - - 5:30 P.M.

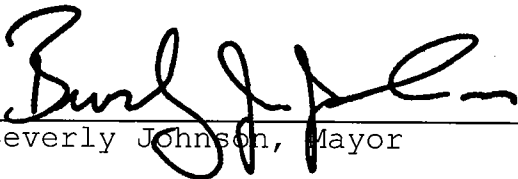
Time: Tuesday, August 2, 2005, 5:30 P.M.

Place: Departing from City Hall, 2263 Santa Clara Avenue,
Alameda, California.

Agenda Item

A Special Meeting has been called to allow the Council to attend an electric bus demonstration.

Adjournment


Beverly Johnson, Mayor



CITY OF ALAMEDA • CALIFORNIA

SPECIAL JOINT MEETING OF THE CITY COUNCIL,
COMMUNITY IMPROVEMENT COMMISSION,
ALAMEDA REUSE AND REDEVELOPMENT AUTHORITY, AND
HOUSING AUTHORITY BOARD OF COMMISSIONERS
TUESDAY - - - AUGUST 2, 2005 - - - 7:05 P.M.

Time: Tuesday, August 2, 2005, 7:05 p.m.

Place: **City Council Chambers Conference Room**, City Hall, corner
of Santa Clara Avenue and Oak Street.

Agenda:

1. Roll Call.

2. Public Comment on Agenda Items Only.

Anyone wishing to address the Council/Commission/Authority/
Board on agenda items only, may speak for a maximum of 3
minutes per item.

3. Adjournment to Closed Session to consider:

3-A. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Name of case: Operation Dignity, Inc. v. City of Alameda,
Community Improvement Commission, Alameda
Reuse and Development Authority and Housing
Authority.

4. Announcement of Action Taken in Closed Session, if any.

Adjournment

Beverly Johnson, Mayor
Chair, Community Improvement
Commission, Alameda Reuse and
Redevelopment Authority, and
Housing Authority Board of
Commissioners



Housing Authority of the City of Alameda

701 Atlantic Avenue - Alameda, California 94501-2161 - TEL: (510) 747-4300 - FAX: (510) 522-7848 - TDD: (510) 522-8467

IF YOU WISH TO ADDRESS THE BOARD:

1. Please file a speaker's slip with the Executive Director, and upon recognition by the Chair, approach the rostrum and state your name; speakers are limited to 3 minutes per item.
2. Lengthy testimony should be submitted in writing and only a summary of pertinent points presented verbally.
3. Applause and demonstrations are prohibited during Board of Commissioners meetings.

AGENDA

SPECIAL MEETING OF THE BOARD OF COMMISSIONERS

DATE & TIME **LOCATION**

Tuesday, August 2, 2005, 7:25 PM

City Hall, Council Chambers, Room 390, 2263 Santa Clara Ave., Alameda, CA

Welcome to the Board of Commissioners of the Housing Authority of the City of Alameda meeting. Regular Board of Commissioners meetings are held on the first Tuesday of each quarter in the Council Chambers at City Hall.

Public Participation

Anyone wishing to address the Board on agenda items or business introduced by Commissioners may speak for a maximum of three minutes per agenda item when the subject is before the Board. Please file a speaker's slip with the Housing Authority Executive Director if you wish to address the Board of Commissioners.

PLEDGE OF ALLEGIANCE

1. **ROLL CALL** - Board of Commissioners
2. **CONSENT CALENDAR**
 - Consent Calendar items are considered routine and will be approved or accepted by one motion unless a request for removal for discussion or explanation is received from the Board of Commissioners or a member of the public.
- 2-A. Minutes of the Regular Board of Commissioner meeting held July 5, 2005. Acceptance is recommended.

2-B. Proclaiming Housing Choice Voucher Rental Property Owners of the Year 2004. The Housing Commission and Chief Executive Officer recommend to the Board of Commissioners that the Mayor proclaim:

- Brad Kruck, owner of a unit at 1604 Sherman Street, 2004 Housing Choice Voucher Program Rental Property Owner of the Year for three or fewer units.
- Irene Hanson, owner of units on 2249 Central Avenue, 2004 Housing Choice Voucher Program Rental Property Owner of the Year for four or more units.

3. AGENDA

3-A. Awarding Budget and Awarding of Contract for Roof Replacement. The Housing Commission and Chief Executive Officer recommend that the Board of Commissioners:

1. Increase the Extraordinary Maintenance Projects line item of the FY2006 budget by \$27,500 to cover the cost of the proposed contract;
2. Award a contract to MNJ Roofing to replace roofs at Eagle and Parrot Villages for \$155,000, plus an additional 10 percent of that amount for any needed change orders, for an amount not to exceed \$170,500; and
3. Authorize the Executive Director to execute the contract.

4. ORAL COMMUNICATIONS, Non-Agenda (Public Comment)

5. COMMISSIONER COMMUNICATIONS, (Communications from the Commissioners)

6. ADJOURNMENT

* * *

Note:

- * Sign language interpreters will be available on request. Please contact Carol Weaver, Executive Assistant, at 747-4325 voice or 522-8467 TDD at least 72 hours before the meeting to request an interpreter.
- * Accessible seating for persons with disabilities (including those using wheelchairs) is available.
- * Minutes of the meeting are available in large print.
- * Audiotapes of the meeting are available on request.
- * Please contact Carol Weaver at 747-4325 voice or 522-8467 TDD at least 72 hours prior to the meeting to request agenda materials in an alternative format, or any other reasonable accommodation that may be necessary to participate in and enjoy the benefits of the meeting.



CITY OF ALAMEDA • CALIFORNIA

IF YOU WISH TO ADDRESS THE COMMISSION:

1. Please file a speaker's slip with the Deputy City Clerk and upon recognition by the Chair, approach the podium and state your name; speakers are limited to three (3) minutes per item.
2. Lengthy testimony should be submitted in writing and only a summary of pertinent points presented verbally.
3. Applause and demonstration are prohibited during Commission meetings.

SPECIAL MEETING OF COMMUNITY IMPROVEMENT COMMISSION TUESDAY - - - AUGUST 2, 2005 - - - 7:27 P.M.

Location: **City Council Chambers**, City Hall, corner of Santa Clara Avenue and Oak Street.

Public Participation

Anyone wishing to address the Commission on agenda items or business introduced by Council may speak for a maximum of 3 minutes per agenda item when the subject is before the Commission. Please file a speaker's slip with the Deputy City Clerk if you wish to speak on an agenda item.

ROLL CALL

MINUTES

Minutes of the Special Joint City Council and Community Improvement Commission (CIC) meeting of June 21, 2005; the Special Joint CIC and Alameda Reuse and Redevelopment Authority meeting of June 28, 2005; and the Special Joint City Council and CIC Meeting of July 19, 2005.

AGENDA ITEMS

1. Recommendation to approve the amended Contract with Architectural Resources Group, Inc. by increasing the Contract amount an additional \$307,414 to provide additional pre-planning and construction administration services for the rehabilitation of the Alameda Theater.

ADJOURNMENT

Beverly Johnson Clair
Community Improvement Commission



CITY OF ALAMEDA • CALIFORNIA

IF YOU WISH TO ADDRESS THE COUNCIL:

1. Please file a speaker's slip with the Deputy City Clerk and upon recognition by the Mayor, approach the podium and state your name; speakers are limited to three (3) minutes per item.
2. Lengthy testimony should be submitted in writing and only a summary of pertinent points presented verbally.
3. Applause and demonstration are prohibited during Council meetings.

AGENDA - - - - - REGULAR MEETING OF THE CITY COUNCIL
TUESDAY - - - - - AUGUST 2, 2005, 2004 - - - - 7:30 P.M.

[Note: Regular Council Meeting convenes at 7:30 p.m., **City Hall, Council Chambers, corner of Santa Clara Ave and Oak St.**]

The Order of Business for City Council Meeting is as follows:

1. Roll Call
2. Agenda Changes
3. Proclamations, Special Orders of the Day and Announcements
4. Consent Calendar
5. Agenda Items
6. Oral Communications, Non-Agenda (Public Comment)
7. Council Communications (Communications from Council)
8. Adjournment

Public Participation

Anyone wishing to address the Council on agenda items or business introduced by Councilmembers may speak for a maximum of 3 minutes per agenda item when the subject is before Council. Please file a speaker's slip with the Deputy City Clerk if you wish to address the City Council.

SPECIAL MEETING OF THE CITY COUNCIL 5:30 P.M.

CITY COUNCIL CHAMBERS

Separate Agenda

SPECIAL JOINT MEETING OF THE CITY COUNCIL, 7:05 P.M.

COMMUNITY IMPROVEMENT COMMISSION, ALAMEDA REUSE AND

REDEVELOPMENT AUTHORITY, AND HOUSING AUTHORITY BOARD

OF COMMISSIONERS, CITY COUNCIL CHAMBERS CONFERENCE ROOM

Separate Agenda (Closed Session)

SPECIAL MEETING OF THE HOUSING AUTHORITY BOARD 7:25 P.M.

OF COMMISSIONERS, CITY COUNCIL CHAMBERS

Separate Agenda

1. ROLL CALL - City Council
2. AGENDA CHANGES
3. PROCLAMATIONS, SPECIAL ORDERS OF THE DAY AND ANNOUNCEMENTS
 - 3-A. Presentation to the Fourth of July Committee recognizing their efforts for a successful Mayor's Fourth of July Parade.
 - 3-B. Proclamation declaring Brad Kruck to be Alameda's 2004 Housing Choice Voucher Program Rental Property Owner of the Year in the three or fewer rental unit category.
 - 3-C. Proclamation declaring Irene Hanson to be Alameda's 2004 Housing Choice Voucher Program Rental Property Owner of the Year in the four or more rental unit category.
 - 3-D. Library Project update.
4. CONSENT CALENDAR

Consent Calendar items are considered routine and will be enacted, approved or adopted by one motion unless a request for removal for discussion or explanation is received from the Council or a member of the public.

- 4-A. Minutes of the Special Joint City Council and Community Improvement Commission (CIC) meeting held on June 21, 2005; and the Special, Special Joint City Council and CIC, and Regular City Council meetings held on July 19, 2005.
- 4-B. Bills for ratification.
- 4-C. Recommendation to authorize the Mayor to send a letter to the United States Postal Service regarding the City's interest to relocate the distribution function of the Alameda Post Office from Shoreline Drive to another site in Alameda. [Mayor Johnson]
- 4-D. Recommendation to adopt specifications for Vehicle Tow Contract for abandoned vehicles for the Police Department.
- 4-E. Recommendation to amend the Consultant Contract with Signet Testing Labs, Inc., modifying the scope of work and increasing the Contract price in the amount of \$54,000 for the New Main Library Project, No. P.W. 01-03-01.

- 4-F. Adoption of Resolution Empowering the City Attorney to Employ Special Legal Counsel.

5. REGULAR AGENDA ITEMS

- 5-A. Final Passage of Ordinance Amending the Alameda Municipal Code by Amending Various Sections of Chapter XXX (Development Regulations).

- 5-B. Final Passage of Ordinance Amending the Alameda Municipal Code by Declaring Boutique Theaters to be Uses Permitted by Use Permit within the C-1 Neighborhood Commercial Zoning District of Chapter XXX (Development Regulations).

- 5-C. Public Hearing to consider an Appeal of the Planning Board approval of Parking Garage Use Permit (UP05-0008) and Design (DR05-0028); and adoption of related resolution. **[To be continued to August 16, 2005]**

- 5-D. Public Hearing to consider an Appeal of the Planning Board approval of Cineplex Design (DR05-0041); and adoption of related resolution. **[To be continued to August 16, 2005]**

6. ORAL COMMUNICATIONS, NON-AGENDA (Public Comment)

Any person may address the Council in regard to any matter over which the Council has jurisdiction or of which it may take cognizance, that is not on the agenda.

7. COUNCIL COMMUNICATIONS (Communications from Council)

- 7-A. Written communication from the League of California Cities requesting designation of Voting Delegate for the League's 2005 Annual Conference.

- 7-B. Discussion regarding the placement of proposed federal legislation that would amend the Indian Gaming Regulatory Act to limit casino expansion on the August 16, 2005 City Council agenda for formal action. [Mayor Johnson]

8. ADJOURNMENT

- For use in preparing the Official Record, speakers reading a written statement are invited to submit a copy to the City Clerk at the meeting or e-mail to: lweisige@ci.alameda.ca.us
- Sign language interpreters will be available on request. Please contact the City Clerk at 747-4800 or TDD number 522-7538 at least 72 hours prior to the Meeting to request an interpreter.
- Equipment for the hearing impaired is available for public use. For assistance, please contact the City Clerk at 747-4800 or TDD number 522-7538 either prior to, or at, the Council Meeting.
- Accessible seating for persons with disabilities, including those using wheelchairs, is available.
- Minutes of the meeting available in enlarged print.
- Audio Tapes of the meeting are available upon request.
- Please contact the City Clerk at 747-4800 or TDD number 522-7538 at least 48 hours prior to the meeting to request agenda materials in an alternative format, or any other reasonable accommodation that may be necessary to participate in and enjoy the benefits of the meeting.



Housing Authority of the City of Alameda

701 Atlantic Avenue - Alameda, California 94501-2161 - TEL: (510) 747-4300 - FAX: (510) 522-7848 - TDD: (510) 522-8467

MINUTES

REGULAR MEETING OF THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE CITY OF ALAMEDA HELD TUESDAY, JULY 5, 2005

The Board of Commissioners was called to order at 7:46 p.m.

PLEDGE OF ALLEGIANCE

1. ROLL CALL

Present: Commissioner Daysog, deHaan, Gilmore, Matarrese, Torrey and Chair Johnson.

Absent: None.

2. CONSENT CALENDAR

Commissioner Torrey moved acceptance of the Consent Calendar. Commissioner Matarrese seconded except for item 2-E which was pulled. Motion carried unanimously. Items accepted or adopted are indicated by an asterisk.

*2-A. Minutes of the Regular Board of Commissioner meeting held April 5, 2005. Minutes were accepted.

*2-B. Minutes of the Special Joint Board of Commissioners and the Alameda Public Financing Authority Meeting held April 19, 2005. Minutes were accepted.

*2-C. Awarding Landscape Maintenance Services Contract. The Board of Commissioners:

1. Awarded the landscape maintenance services contract to Tree Sculpture for an amount not to exceed \$149,000 for FY2006, with an option to renew the contract for up to two additional one-year terms if service is found to be satisfactory and the Board of Commissioners adopts FY2007 and FY2008 budgets providing adequate funding; and
2. Authorized the Executive Director to execute the contract.

*2-D. Recommending Award of Contract for Furnace Replacement. The Board of Commissioners:

1. Awarded a contract to Atlas Heating and Air Conditioning to replace furnaces at Eagle and Parrot Villages for \$96,880 plus an additional 10 percent of that amount for any needed change orders, for an amount not to exceed \$106,568; and
 2. Authorized the Executive Director to execute the contract.
- 2-E. Budget Revision for the Fiscal Year FY2006. Commissioner Gilmore pulled this item from the Consent Calendar. She requested a brief recap of the Section 8 funding crisis and where the Housing Authority stands currently. Executive Director Michael Pucci responded that there has been a complete turnaround. Commissioner Gilmore thanked Mr. Pucci and the Housing Authority staff for doing an outstanding job.

Chair Johnson asked whether the program will be voucher or budget based. Mr. Pucci responded that the voucher program is budget based and we were informed of the budget amount in January for the entire calendar year. She also asked how many households can be helped. Mr. Pucci responded that 1,675 households can be assisted.

Commissioner Daysog asked if there is any virtue in not fully leasing up. Mr. Pucci responded affirmative and that the Housing Authority wants a cushion (surplus).

Commissioner deHaan asked Mr. Pucci if he sees any changes in the rental market. Mr. Pucci responded that the rental market is stable and the Housing Authority will be conducting a rent survey in the next couple of months.

Commissioner Daysog asked about the affect of the rental market on the program. Mr. Pucci responded that increased rents could mean we would help fewer people. We now have a fund surplus so that could help pay for increased rents until we can reduce the program size through attrition.

Chair Gilmore moved adoption of:

1. The budget revision for FY2006;
2. The resolution for the Conventional Low-Rent Housing Program No. CA062 Esperanza).

Commissioner deHaan seconded. Motion adopted unanimously.

3. AGENDA

None.

4. ORAL COMMUNICATIONS

None.

5. COMMISSIONER COMMUNICATIONS

Commissioner Torrey provided information to fellow Commissioners from conferences he attended.

6. ADJOURNMENT

There being no further business, Chair Johnson adjourned the meeting at 7:59 p.m.

Attest:

Beverly Johnson, Chair

Michael T. Pucci
Executive Director / Secretary



Housing Authority of the City of Alameda

701 Atlantic Avenue - Alameda, California 94501-2161 - Tel: (510) 747-4300 - Fax: (510) 522-7848 - TDD: (510) 522-8467

Date: July 21, 2005

To: Honorable Chair and Members
of the Board of Commissioners

From: Debra Kurita
Chief Executive Officer

RE: Proclaiming Housing Choice Voucher Rental Property Owners of the Year 2004

Background:

The Housing Authority, in an effort to increase participation from Alameda rental property owners in the Section 8 Housing Choice Voucher program, has established an award to recognize the Housing Choice Voucher Property Owners of the Year. This award serves a public purpose by creating an incentive for landlords to participate in the Housing Choice Voucher program. Ultimately, the goal is to assist new Housing Choice Voucher holders to find a decent, safe place to live and to provide existing voucher holders the security of continuing to live in their homes.

Discussion:

In February 2005, nomination forms were mailed to current Housing Choice Voucher participants asking for input on their landlord/property owner. The criteria for recommending property owners remained unchanged from when the incentive program began in 2000. Again this year, awards will be given in two categories: property owners with three or fewer rental units under the voucher program, and owners with four or more rental units under the voucher program. Housing Authority staff believe the award system is more inclusive of small property owners by making this distinction.

For the 2004 awards, 15 nominations were received. Staff members reviewed all the nominations and selected a total of eight property owners, four for each category, that best fit the selection criteria. These eight nominations, with supporting documentation, were presented to a committee of the Housing Commission for a recommendation to the full Commission. At prior Housing Commission meetings, the Commission selected two property owners to recommend to the Board of Commissioners.

Fiscal Impact:

The total cost for the program is approximately \$570. This includes mailing nomination forms to Housing Choice Voucher participants at bulk rate (\$270) and the cost of plaques and gift certificates for the winning landlords (\$300). The six runners-up will receive framed certificates.

Policy Document Reference:

Not applicable.

Recommendation:

The Housing Commission and Chief Executive Officer recommend to the Board of Commissioners that the Mayor proclaim:

- Brad Kruck, owner of a unit at 1604 Sherman Street, 2004 Housing Choice Voucher Program Rental Property Owner of the Year for three or fewer units.
- Irene Hanson, owner of units on 2249 Central Avenue, 2004 Housing Choice Voucher Program Rental Property Owner of the Year for four or more units.

Respectfully submitted,

A handwritten signature in black ink that reads "Michael T. Pucci". The signature is written in a cursive, flowing style.

Michael T. Pucci
Executive Director

MTP:kw



Housing Authority of the City of Alameda

701 Atlantic Avenue - Alameda, California 94501-2161 - Tel: (510) 747-4300 - Fax: (510) 522-7848 - TDD: (510) 522-8467

Date: July 21, 2005

To: Honorable Chair and Members
of the Board of Commissioners

From: Debra Kurita
Chief Executive Officer

RE: Amending Budget and Awarding Contract for Roof Replacement

Background:

The Housing Authority's budget contains two Extraordinary Maintenance Projects (EMPs) for this fiscal year. EV6-06 is to replace the remaining 20 roofs at Eagle Village and PV5-06 is to replace the remaining 17 roofs at Parrot Village.

The Housing Commission had the opportunity to review this information at its July 20 meeting.

Discussion:

On June 13, 2005, the Housing Authority issued an Invitation for Bids (IFB) to replace all roofs at Eagle Village and Parrot Village that have not already been replaced in the last few years. The bid announcement was published in the *Alameda Journal* and posted to the Housing Authority's web site. It also was mailed or faxed to 36 contractors. These contractors included those who have expressed interest in being notified when an IFB is issued, are Alameda contractors or hold an Alameda business license (14), and other contractors in the area who specialize in this type of work. Minority- and woman-owned businesses were encouraged to bid.

A site visit to both complexes was scheduled for June 23. The deadline for submitting bids was July 5, 2005. Contractors were given the opportunity to bid separately to replace roofs at Eagle Village or Parrot Village or to bid for both projects. They also were asked to provide the hourly charge for any change orders, one to include replacement of sheathing due to dry rot or other damage and the other for any other type of change order. The first type identifies the rate by the plywood sheet, the second type by the hourly rate, including labor and materials.

Five contractors submitted bids; however, two bids had to be rejected. One bid was rejected because the contractor failed to submit two required forms and, more importantly, a bid bond. The other bid was rejected because two required forms were not submitted as well as proof of auto and worker's compensation insurance coverage.

The three remaining responsive bids are:

<u>BIDDER and LOCATION</u>	<u>EV</u>	<u>PV</u>	<u>EV&PV</u>	<u>C.O.#1</u>	<u>C.O.#2</u>
MNJ Roofing, Oakland	\$80,000	\$75,000	\$155,000	\$50.00	\$65.00
Central Bay Roofing, Alameda	\$98,763	\$99,948	\$198,711	\$83.22	\$95.00
Scepter Co., San Francisco	\$145,000	\$168,000	\$313,000	\$30.00	\$35.00

The lowest responsive bidder was MNJ Roofing. The Housing Authority has not worked with MNJ Roofing on any other project; therefore, a thorough check of references, contractor's license and other requirements was completed. The company and its subcontractor, Song Roofing, have completed work for property owners over the past 10 to 15 years. Projects include the John Muir Homes I and II in Martinez, a HUD-funded project, which included both flat and pitched roofs. The company appears to have the experience and qualifications to complete the Eagle Village and Parrot Village projects.

Fiscal Impact:

The Housing Authority budget includes \$90,000 to replace the remaining 20 roofs at Eagle Village and \$53,000 to replace the remaining roofs at Parrot Village for a total of \$143,000. A contract award of \$155,000 plus a 10 percent contingency, would total \$170,500, over the budgeted amount.

Originally the assumption was the most of the roofs at Parrot Village could receive an overlay. Upon further examination, it was determined that there were already a maximum number of overlays on most of the roofs. As such, the IFB asked that the bids include tearing off the old overlays and installation of new roofing shingles. The cost; therefore, is higher than originally anticipated.

Since funds are available from the bond issuance to cover these expenses, staff recommends amending the budget to cover the cost for this contract. If approved, EV6-06 would be amended from \$90,000 to \$88,000 and PV5-06 would be amended from \$53,000 to \$82,500 for a net total increase of \$27,500.

Due to its length, the contract is on file and is available for review in the City Clerk's Office.

Policy Document Reference:

The Board of Commissioners adopted a Procurement Policy for the Housing Authority in 1996 that established contract amounts that require its approval. The Board must approve award of all contracts in excess of \$75,000.

The Board of Commissioners has retained the authority to approve the Housing Authority's budget and any amendments to that budget.

Recommendation:

The Housing Commission and Chief Executive Officer recommend that the Board of Commissioners:

1. Increase the Extraordinary Maintenance Projects line item of the FY2006 budget by \$27,500 to cover the cost of the proposed contract;
2. Award a contract to MNJ Roofing to replace roofs at Eagle and Parrot Villages for \$155,000, plus an additional 10 percent of that amount for any needed change orders, for an amount not to exceed \$170,500; and
3. Authorize the Executive Director to execute the contract.

Respectfully submitted,

A handwritten signature in black ink that reads "Michael T. Pucci". The signature is written in a cursive, flowing style.

Michael T. Pucci
Executive Director

MTP:ED

u:\Commission Reports\furnace replace contract

UNAPPROVED MINUTES
MINUTES OF THE SPECIAL JOINT CITY COUNCIL AND
COMMUNITY IMPROVEMENT COMMISSION MEETING
TUESDAY- -JUNE 21, 2005- -7:25 P.M.

Mayor/Chair Johnson convened the special meeting at 8:00 p.m.

ROLL CALL - Present: Councilmembers/Commissioners Daysog,
deHaan, Gilmore, Matarrese and Mayor/
Chair Johnson - 5.

Absent: None.

MINUTES

(05- CC/05- CIC) Minutes of the Special Community Improvement Commission Meeting held on April 5, 2005; and the Special Joint City Council, Community Improvement Commission, and Alameda Reuse and Redevelopment Authority Meeting held on June 7, 2005. Approved.

Councilmember/Commissioner Gilmore moved approval of the minutes.

Councilmember/Commissioner deHaan seconded the motion, which carried by unanimous voice vote - 5.

AGENDA ITEM

(05- CC/05- CIC) Joint Public Hearing to review and approve concept of Affordable Rental Housing at Island High as an eligible use of District Housing Fund.

Mayor/Chair Johnson opened the public portion of the Hearing.

There being no speakers, Mayor/Chair Johnson closed the public portion of the Hearing.

The Development Manager for Housing provided a briefing on the proposed concept.

Councilmember/Commissioner Daysog inquired whether there would be a targeted beneficiary for rental housing, to which the Development Manager for Housing responded that the agreement allows the School District to target beneficiaries to the extent allowable by law; stated the School District would prefer to give priority to District employees.

Councilmember/Commissioner Matarrese moved approval of the staff recommendation.

Councilmember/Commissioner Matarrese stated there is an opportunity to provide meaningful, affordable housing.

Councilmember/Commissioner deHaan seconded the motion, which carried by unanimous voice vote - 5.

ADJOURNMENT

There being no further business, Mayor/Chair Johnson adjourned the special meeting at 8:05 p.m.

Respectfully submitted,

Lara Weisiger, City Clerk
Secretary, Community Improvement
Commission

The agenda for this meeting was posted in accordance with the Brown Act.

UNAPPROVED MINUTES

MINUTES OF THE SPECIAL JOINT COMMUNITY IMPROVEMENT COMMISSION AND ALAMEDA REUSE AND REDEVELOPMENT AUTHORITY MEETING TUESDAY- - - JUNE 28, 2005 - - - 6:45 P.M.

Chair Johnson convened the Special Joint Meeting at 7:22 p.m.

ROLL CALL - Present: Commissioner/Board Member Daysog, deHaan, Gilmore, and Chair Johnson - 4.

Absent: Commissioner/Board Member Matarrese - 1.

Note: Chair Johnson announced that Commissioner/Board Member would not be teleconferencing from El Salvador because the phone connection was not working.

AGENDA ITEM

(05- CIC) Discussion/review of the City Charter and related Alameda Reuse and Redevelopment Authority (ARRA) and Community Improvement Commission (CIC) policy, procedures, and management practices.

Chair Johnson stated that the City Attorney was requested to provide thoughts on emergency spending for outside counsel; noted that the hiring of outside counsel is approved by the Council and that some slight revisions need to be made to the CIC and ARRA By-laws, etc. in order to provide consistency between the City Council, CIC and ARRA.

Commissioner/Board Member Daysog inquired whether the issue of hiring outside counsel was related to determining what the threshold would be.

Chair Johnson responded that the City Attorney was to provide information on how much would be required to cover the interim period before the matter was brought back to the Council.

Commissioner/Board Member Gilmore stated that she understood that the matter would be addressed at a meeting in July.

Chair Johnson stated that a memo was received stating that an outside attorney had been hired; the City Attorney indicated that the issue regarding hiring of outside counsel applied to the Council, not the CIC or ARRA.

The City Attorney distributed the minutes of the June 7, 2005 Council Meeting; stated the Council requested a proposal from the City Attorney's office for a future meeting; noted the hiring of outside counsel was not part of the budget adoption.

Chair Johnson stated the matter could be brought back at the July 5 City Council Meeting if the Council action is not clear.

The City Attorney stated the matter is on the July 5 Council agenda per Council's request for discussion in closed session; noted that she was requested to provide a proposal at the last performance evaluation.

Chair Johnson stated different interpretations of the Council's actions at the June 7 Council Meeting are not necessary; the Council can place the matter on the July 5 Council Meeting in open session; that she does not believe the matter is a closed session item.

Commissioner/Board Member Gilmore stated that she distinctly remembers that there was a certain amount of concern in discussing authorized amounts in open session because of litigation strategies.

Chair Johnson stated that the concept needs to be adopted in open session.

The City Attorney stated that she is proceeding to provide a proposal at the July 5 Closed Session Meeting in order to not reveal litigation strategies and to respond to the Council's request for additional oversight and threshold identification; any budget amendments should subsequently be placed on an open session agenda; at the last performance evaluation, the Council requested that the matter initially be addressed in closed session.

Chair Johnson stated there is also direction that action has to be consistent with the Charter.

The City Attorney concurred with Chair Johnson.

Chair Johnson stated that the Charter provides that the Council consent to the hiring of outside counsel.

The City Attorney distributed an opinion by Robert Logan which addressed budget appropriations and authorizations; stated that it is appropriate for the Council to follow the pattern and practice

that has been in place for over 16 years and which was adopted at no less than five public meetings where a budget appropriation for the City Attorney was authorized; stated that she did understand the Mayor's request and would return with an oversight proposal.

Chair Johnson stated that the direction to operate consistently with what the Charter provides has already been given to the City Attorney.

The City Attorney concurred with Chair Johnson; stated that the attorney retained by the Council in 1989 provided an analysis of the direction regarding retention of outside counsel.

Chair Johnson stated that the Council also gave direction regarding the Charter stating that the Council consent is required to hire outside attorneys.

The City Attorney stated that the consent has been given through the budget in the past 16 years; the policy can be changed and would be discussed on July 5th.

Commissioner/Board Member Daysog stated that the budget enables the City Manager and department heads to hire individuals; the Council does not need to be involved in the actual hiring but might want to be involved in instances above or below certain thresholds; stated that the Council is moving in the right direction.

Commissioner/Board Member deHaan stated the initial clarification would be with the Charter; noted there is dispute between the City Attorney and the Council; the Council feels that they have the authority to consent to the hiring of outside legal counsel.

Chair Johnson stated that there is no need to hire an attorney to provide an opinion on the language of the Charter; the language of the Charter is very plain and clear.

Commissioner/Board Member deHaan stated the Council could move forward if the language of the Charter has been determined.

Chair Johnson stated that there is a \$470,000 litigation contingency in Risk Management and an additional \$350,000 for Alameda Power & Telecom; noted that the City Attorney is stating that the Council has consented to the hiring of outside counsel by approving the line items in the budget over the past 16 years; the Council has given a blanket authorization to the City Attorney to hire outside counsel and that is not the level of oversight that the Charter intends; the Charter was drafted to provide needed

checks and balances; the City Attorney's office has five attorneys and also spends a significant amount of money on outside counsel; stated that the Council should have more of a role in the hiring of outside counsel and needs to be more in line with the intention of the Charter; changes can be made as time goes on and when the Council feels more comfortable; a lot of money is being spent on outside attorneys and the Council has an obligation to be more aware of outside attorney costs.

Commissioner/Board Member Daysog stated that defining the parameters of discretion and how the discretion relates to Section 8-5 of the Charter is the issue; the Council is in the process of defining discretionary parameters of "may empower"; the City Attorney or any other City office meets Council expectations through the establishment of the budget; threshold parameters need to be established; the Council is moving in the direction that will work for both sides but will not be established tonight.

Chair Johnson stated that clear direction was given to the City Attorney to bring the matter of hiring of outside counsel back to the Council at the last Closed Session Meeting.

Commissioner/Board Member Daysog stated that his interpretation of the Charter is that because there was no specific ordinance or resolution defining "may empower" the past practice is still in effect.

Chair Johnson stated that is not what she heard at the last meeting.

The City Attorney stated that she is working on a proposal to be presented to the City Council on July 5; that she hears what the Council is saying and understands that there is a desire for additional oversight; the proposal will provide additional Council involvement and discretion, and provide significantly less discretion on the City Attorney's part.

Chair Johnson stated that the Council is not asking for less discretion on the City Attorney's part; stated that Council should do what the Charter says; the interpretation of the Charter could be that the Council gives consent to the City Attorney to spend money on outside attorneys by putting a line item in the budget or the interpretation of the Charter can be that the Council is not going to give consent by a line item; the latter was made clear at the June 7 Joint City Council, CIC, ARRA Meeting; the Council is allocating \$470,000 but the City Attorney does not have the discretion to spend it without the Council's consent.

The Acting City Manager stated that the [June 7] action of the Council was to adopt the budget; Chair Johnson requested the City Attorney to bring the hiring of outside counsel to Council but the matter was not part of the motion; that he is not sure how many other Councilmembers gave the direction to the City Attorney; staff follows direction given by the Council; it is not necessary to have a motion and vote; the City Attorney would provide a proposal to determine the extent of Council overview; that he questions whether the City Attorney should hire outside counsel or come to the Council voluntarily to request consent of hiring outside counsel.

Chair Johnson inquired whether the City Attorney could come to Council when the hiring of outside counsel was necessary in the interim, to which the City Attorney responded that she would not hire outside counsel until July 5; noted that there are existing counsel, bills and litigation.

Chair Johnson stated that the Council is not addressing attorneys that are already working for the City.

Commissioner/Board Member Daysog inquired whether the City Attorney intended to hire new outside counsel in the next ten days, to which the City Attorney responded in the negative.

Commissioner/Board Member deHaan stated the Council requested a summary of existing litigation and hopes to have the information provided at the next meeting; ARRA has a substantial amount of litigation; noted there are fixed and variable portions of the budget; Council would like to keep control of outside counsel spending; the oversight philosophy is important.

Chair Johnson stated that all the Council agreed that there was a need to provide some authority for emergency spending.

Commissioner/Board Member Gilmore stated that that it is important to establish a policy that is consistent across all governing bodies.

Commissioner/Board Member deHaan stated that the Council requested to be involved in interim decisions and hopes to be receiving said information.

Chair Johnson stated that the Council requested a list of attorneys, including scope of service; the information should be presented before the next Council meeting; inquired whether the City Attorney's proposal would be in the agenda packet or presented

in advance; stated she would prefer that the proposal was not distributed to the Council on the night of the meeting.

The City Attorney stated the information would be provided to the Council before the City Council Meeting; stated that she would bring the proposal to the July 5 Closed Session Meeting with the advanced copy of all information requested; she hears the Council direction in terms of a desire for policy direction to provide the additional thresholds and Council involvement and oversight for all governing bodies; matters would be discussed and direction taken from the Council.

Chair Johnson stated that she does not expect that any outside counsel would need to be hired within the next week, inquired what was decided on the interim.

The City Attorney responded that she would like the Council to keep a reasonable, fair and equitable approach; all department heads are authorized to spend monies when the budget is adopted; \$75,000 or less is the current amount without Council authorization.

Chair Johnson stated that no one else in the City has authorization to spend over \$800,000.

The City Attorney reiterated her request for a reasonable approach.

Chair Johnson stated that the Council is always fair and reasonable; stated that she made it clear at the budget meeting that the Council is not changing the amount of the City Attorney's budget but is exercising Council responsibility.

Commissioner/Board Member deHaan stated that the direction for other City departments might change also; the City is in extraordinary times in reviewing the budget, controlling staffing, and developing needed services.

Commissioner/Board Member Gilmore stated that the Council does not want to make it significantly more difficult for the City Attorney to be able to do her job.

Commissioner/Board Member Daysog stated that delivery of successful services to the residents is ultimately the end responsibility; the question of reasonableness is not incidental; rapid responses are necessary for the legal team; the City is shooting itself in the foot if rules do not allow for rapid responses.

The City Attorney stated that she is fully confident that the

proposal submitted on July 5 will be adequate for all purposes.

Chair Johnson requested that the City Attorney summarize her understanding of the Council's direction.

The City Attorney stated that the direction from the Council was to provide a proposal that addresses issues regarding the Charter, Council oversight in order to provide a threshold to limitation of the City Attorney's current budgeting authority, and to address other issues discussed, i.e., an RFQ panel of attorneys.

Chair Johnson stated the Council does not intend to limit the dollar amount; the Council could spend \$800,000 on one case; the focus is on hiring outside counsel.

The Acting City Manager stated that sometimes it is not known how much money will be necessary for hiring outside attorneys in cases where the City gets sued; usually there is a proposal from a consultant advising what the cost will be when other departments hire consultants; the Council would like to be advised who the outside counsel would be.

Chair Johnson stated it is not necessary to have a dollar amount in contracts; the Council needs to be advised who the attorney is that would handle the matter.

Councilmember Daysog stated that it is not in the interest of the public for the Council to be involved in every single hiring decision; there should be a threshold.

Vice Mayor Gilmore stated that the Council does not want to be involved in every single hiring decision.

Chair Johnson stated there would be a greater awareness and sensitivity to hiring outside counsel; there have been instances where the Council has questioned why outside counsel was hired; the issue is not a dollar limit; stated the Council could discuss the type of issues that should involve the Council; the City Attorney could address the matter in her proposal.

Councilmember deHaan requested a summary of litigation and the estimates for finalization; requested that the Council receive advanced notice when the amount of a consultant's contract is anticipated to increase.

Councilmember deHaan stated that all managers should be able to provide the Council with an on-going ledger.

Chair Johnson stated that the task of providing the ledger to the Council should not be burdensome; requested that the City Attorney advise the Council if the task would be burdensome.

Commissioner/Board Member Gilmore stated that the Council would rather have the City Attorney perform legal work than administrative work; stated the City Attorney is obviously more valued as a lawyer.

Adjournment

There being no further business, Chair Johnson adjourned the Special Joint Meeting at 8:57 p.m.

Respectfully submitted,

Lara Weisiger, Secretary
Community Improvement Commission

The agenda for this meeting was posted in accordance with the Brown Act.

UNAPPROVED MINUTES
MINUTES OF THE SPECIAL JOINT CITY COUNCIL AND
COMMUNITY IMPROVEMENT COMMISSION MEETING
TUESDAY- -JULY 19, 2005- -6:55 P.M.

Mayor/Chair Johnson convened the Special Joint Meeting at 7:30 p.m.

ROLL CALL - Present: Councilmembers/Commissioners Daysog,
deHaan, Gilmore, Matarrese, and
Mayor/Chair Johnson - 5.

Absent: None.

The Special Joint Meeting was adjourned to Closed Session to consider:

(05-) Conference with Legal Counsel - Existing Litigation; Name of case: Alameda Belt Line v. City of Alameda, Alameda Belt Line v. City of Alameda, and City of Alameda v. Alameda Belt Line.

Following the Closed Session, the Special Meeting was reconvened and Mayor/Chair Johnson announced that the Council/Commission obtained briefing from the City Attorney/Legal Counsel.

Adjournment

There being no further business, Mayor/Chair Johnson adjourned the Special Joint Meeting at 7:38 p.m.

Respectfully submitted,

Lara Weisiger, City Clerk
Secretary, Community Improvement
Commission

The agenda for this meeting was posted in accordance with the Brown Act.

CITY OF ALAMEDA

Memorandum

To: Honorable Chair and
Members of the Community Improvement Commission

From: Debra Kurita
Executive Director

Date: July 20, 2005

Re: Recommendation that the Community Improvement Commission Approve the Amended Contract with Architectural Resources Group, Inc. by Increasing the Contract Amount an Additional \$307,414 to Provide Additional Pre-Planning and Construction Administration Services for the Rehabilitation of the Alameda Theater

BACKGROUND

Over the past two years, the City has been proceeding with planning activities for the historic rehabilitation of the Alameda Theater, in conjunction with a multi-screen theater and parking structure project. These activities included the City retaining historic preservation architects, Architectural Resources Group (ARG), to provide feasibility and cost estimates for the potential historic rehabilitation of the Alameda Theater.

In November 2003 the Community Improvement Commission (CIC) contracted with ARG to prepare preliminary cost estimates, base drawings, code analysis, testing of interior panels and finishes, and recommendations for interior rehabilitation. The cost of that contract was \$78,890.

Since then, the CIC has amended ARG's contract four times to authorize performance of expanded services necessary to move the proposed Historic Theater project forward:

1. In June 2004, the CIC approved a \$129,200 amendment to provide additional testing and analysis of system improvements with complete cost estimates for potential rehabilitation of the theater.
2. In October 2004, the CIC approved a \$43,550 amendment to coordinate with the preliminary designs for the cineplex and parking structure.
3. In December 2004, the CIC approved a \$320,000 amendment to produce construction documents.
4. In April 2005, the CIC approved a \$44,275 amendment to provide documentation for Section 106 requirements of the National Historic Preservation Act and to provide specifications for the ADA ramp and Exit Stair Enclosure.

The total amount allocated to date for ARG's scope of work is \$615,915, not including the proposed contract amendment. (The contract and all amendments are on file with the City Clerk.)

DISCUSSION

The purpose of the contract amendment is for ARG to provide consulting services through the final phases of the theater rehabilitation project. The amendment will enable ARG to help resolve technical issues critical to the project. Perhaps the most important unresolved issue is the viability of the tunnels beneath the auditorium for their original use as a ventilation system. The Phase I Environmental Report found the tunnels completely flooded and could not be inspected for asbestos. Further investigation is required to determine the source of the flooding and the potential costs for waterproofing and remediation. The amendment will also allow ARG to identify the costs for repairing the historic curtain, implementing various fire sprinkler systems in the main auditorium, and completing the acoustical analysis of the HVAC system to meet the City's sound ordinance. Under this amendment, ARG's budget to complete these remaining pre-planning tasks will not exceed \$68,734.

Finally, ARG will be able to help the City with the contractor selection process, by attending the bidders' conference, responding to bidders questions, and meeting with the City as necessary. The contract amendment will also cover ARG's role as construction administrator for the project. These responsibilities include on-site review of historic theater construction and coordination with the cineplex and parking structure construction. As the construction administrator, ARG will also review and approve pay requests and change orders, if needed, and respond to requests for information or clarification by the construction contractor. ARG's budget under this amendment to provide construction administrator services will not exceed \$238,680, for a total amendment budget of \$307,414.

Remaining Pre-Planning Tasks	\$68,734
<u>Construction Administration</u>	<u>\$238,680</u>
Total Contract Amendment Budget	\$307,414

City staff reviewed the contract amendment line item budget with ARG and the City's internal construction expert and reduced costs where possible. The result is that the total Architecture and Engineering (A&E) costs of \$923,329 represents roughly 13 percent of the currently estimated construction budget. This is close to the industry standard of 10 to 12 percent and the Library's A&E ratio, which falls within the industry standard. It should be noted that ARG's A&E costs included intensive research and testing (such as microscopic analysis of paint samples) required for design options and construction documents, which explains why the project's A&E costs are slightly higher than the industry standards. Staff is confident that ARG has presented a reasonable cost proposal.

Dedicated to Excellence, Committed to Service

BUDGET CONSIDERATION/FINANCIAL IMPACT

This project will be funded by the 2003 Merged Area Bonds and will not impact the General Fund. Architectural fees for this phase of work will not exceed \$307,414 for a total contract amount of \$923,329.

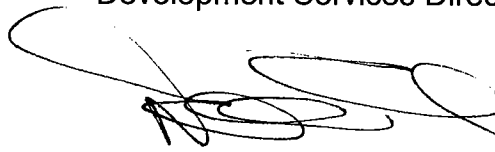
RECOMMENDATION

It is recommended that the Community Improvement Commission approve the amended contract with Architectural Resources Group, Inc. by increasing the contract amount an additional \$307,414 to provide additional pre-planning and construction administration services for the Alameda Theater Project.

Respectfully submitted,



Leslie A. Little
Development Services Director



By: Dorene E. Soto
Manager, Business Development
Division



Eric Fonstein
Development Coordinator

WCN/LAL/DES/EF:rv

cc: Architectural Resources Group, c/o Naomi Miroglio

Dedicated to Excellence, Committed to Service

The Mayor and City Council of the City of Alameda Present this

Certificate of Appreciation

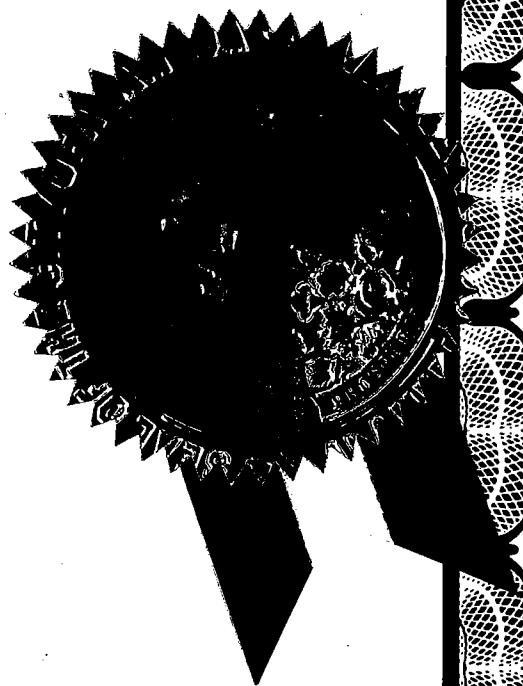
to

Barbara Price

In recognition of an extraordinary job as part of the Mayor's Fourth of July Parade Committee.

Presented this 2nd Day of August 2005.

Beverly Johnson
Mayor



The Mayor and City Council of the City of Alameda Present this

Certificate of Appreciation

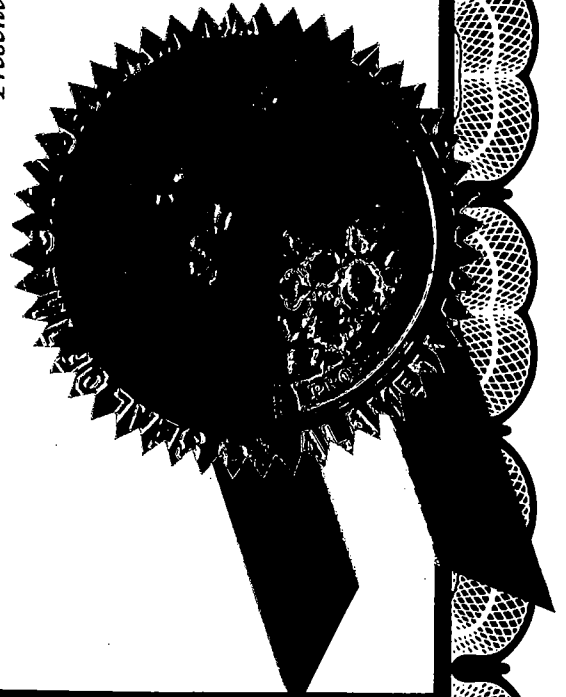
to

Del Blaylock

In recognition of an extraordinary job as part of the Mayor's Fourth of July Parade Committee.

Presented this 2nd Day of August 2005.

*Beverly Johnson
Mayor*



The Mayor and City Council of the City of Alameda Present this

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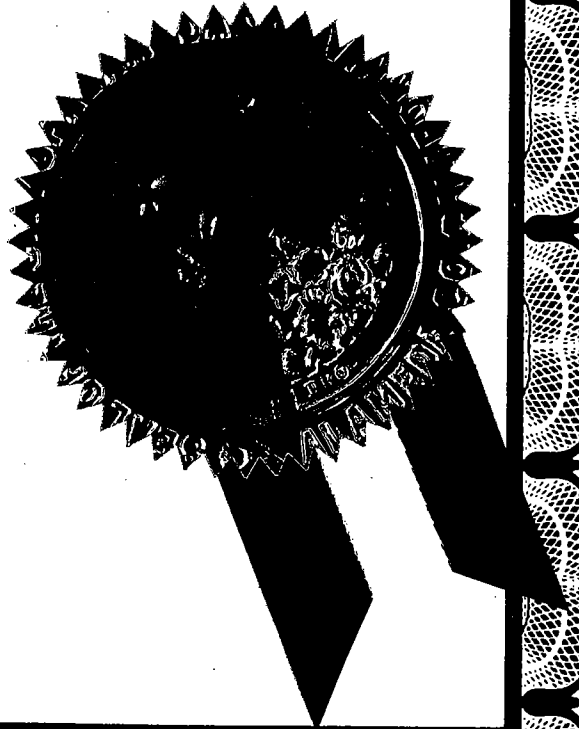
to

Karl and Jean Breitkopf

In recognition of an extraordinary job as part of the Mayor's Fourth of July Parade Committee.

Presented this 2nd Day of August 2005.

Beverly Johnson
Mayor



The Mayor and City Council of the City of Alameda Present this

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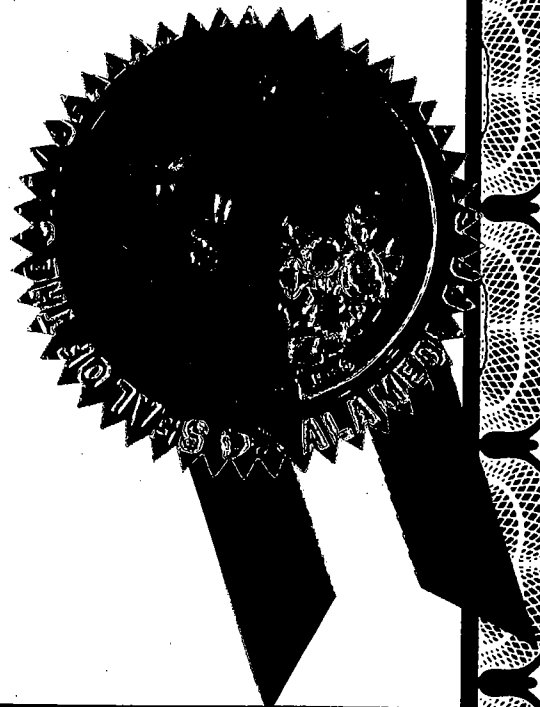
to

Jim Franz

In recognition of an extraordinary job as part of the Mayor's Fourth of July Parade Committee.

Presented this 2nd Day of August 2005.

*Beverly Johnson
Mayor*



The Mayor and City Council of the City of Alameda Present this

Certificate of Appreciation

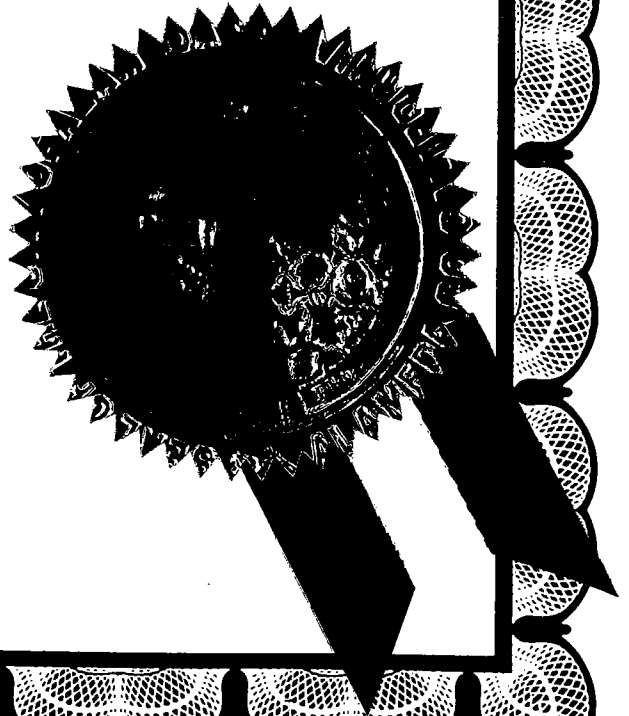
to

Diana and Art Helwig

In recognition of an extraordinary job as part of the Mayor's Fourth of July Parade Committee.

Presented this 2nd Day of August 2005.

Beverly Johnson
Mayor



The Mayor and City Council of the City of Alameda Present this

Certificate of Appreciation

to

Steve Helwig

In recognition of an extraordinary job as part of the Mayor's Fourth of July Parade Committee.

Presented this 2nd Day of August 2005.

*Beverly Johnson
Mayor*



The Mayor and City Council of the City of Alameda Present this

Certificate of Appreciation

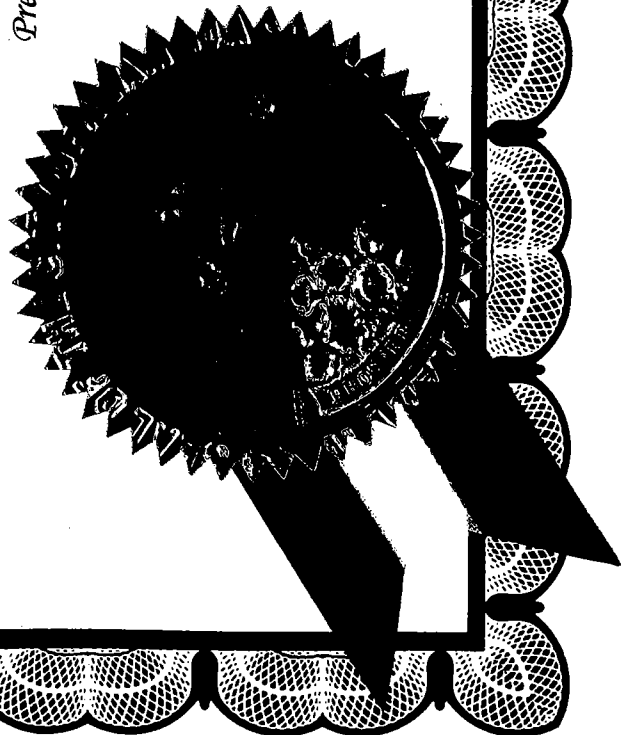
to

Diane Lichtenstein

In recognition of an extraordinary job as part of the Mayor's Fourth of July Parade Committee.

Presented this 2nd Day of August 2005.

*Beverly Johnson
Mayor*



The Mayor and City Council of the City of Alameda Present this

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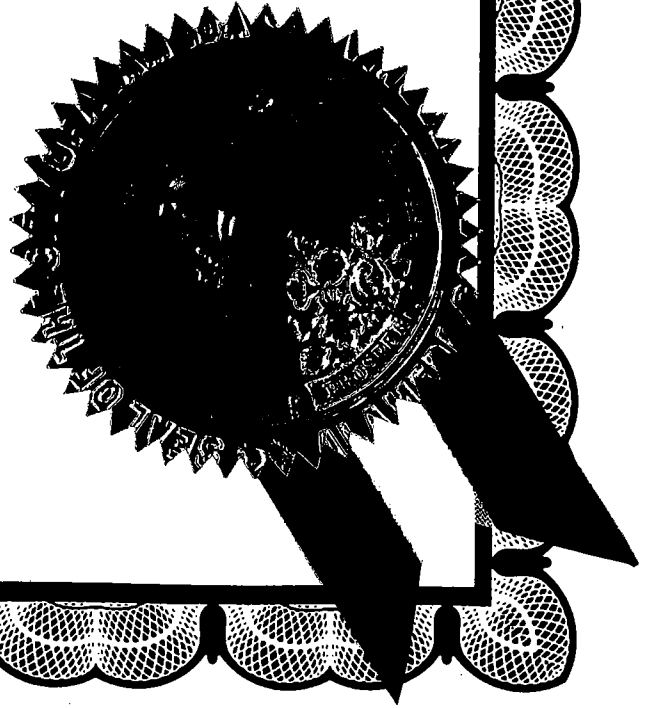
to

Billie Trujillo

In recognition of an extraordinary job as part of the Mayor's Fourth of July Parade Committee.

Presented this 2nd Day of August 2005.

*Beverly Johnson
Mayor*



The Mayor and City Council of the City of Alameda Present this

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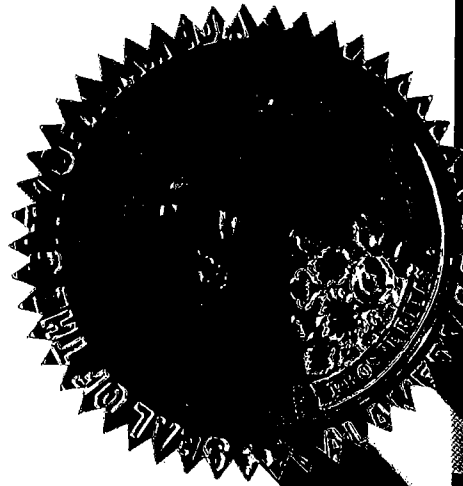
to

Dom C. Dicolen

In recognition of an extraordinary job as part of the Mayor's Fourth of July Parade Committee.

Presented this 2nd Day of August 2005.

*Beverly Johnson
Mayor*



The Mayor and City Council of the City of Alameda Present this

Certificate of Appreciation

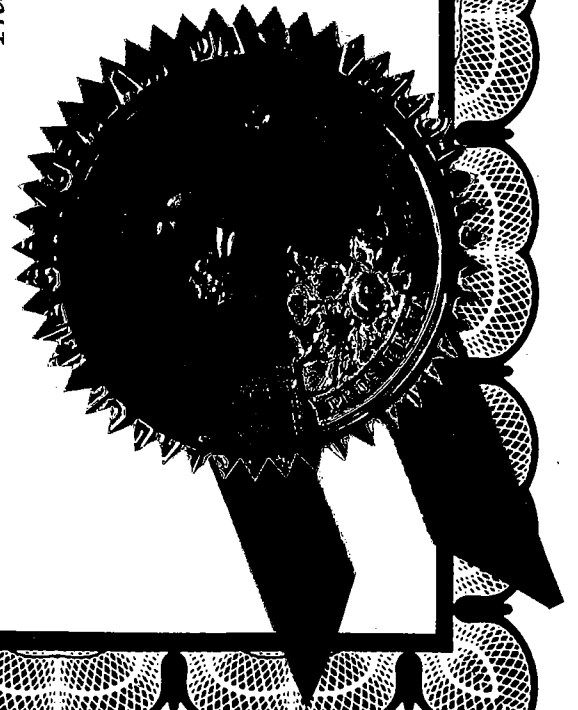
to

Lisa Rossi

In recognition of an extraordinary job as part of the Mayor's Fourth of July Parade Committee.

Presented this 2nd Day of August 2005.

*Beverly Johnson
Mayor*



The Mayor and City Council of the City of Alameda Present this

Certificate of Appreciation

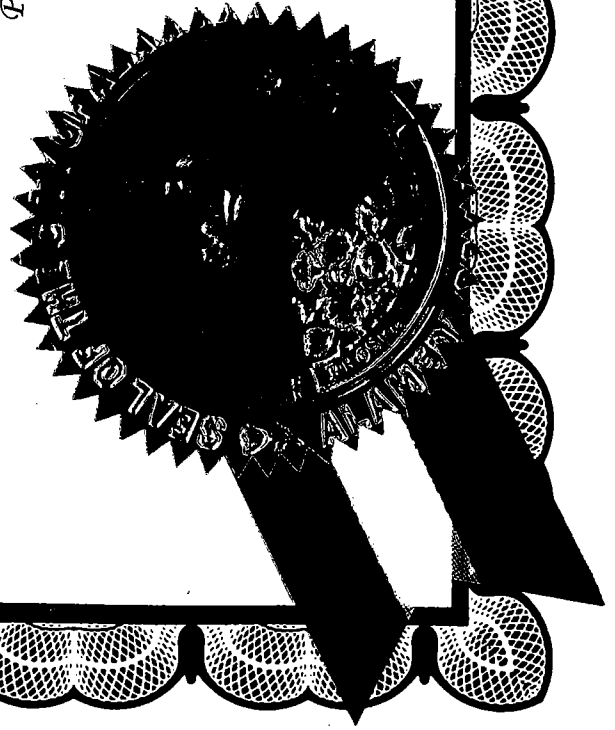
to

Kendra Williams

In recognition of an extraordinary job as part of the Mayor's Fourth of July Parade Committee.

Presented this 2nd Day of August 2005.

*Beverly Johnson
Mayor*



The Mayor and City Council of the City of Alameda Present this

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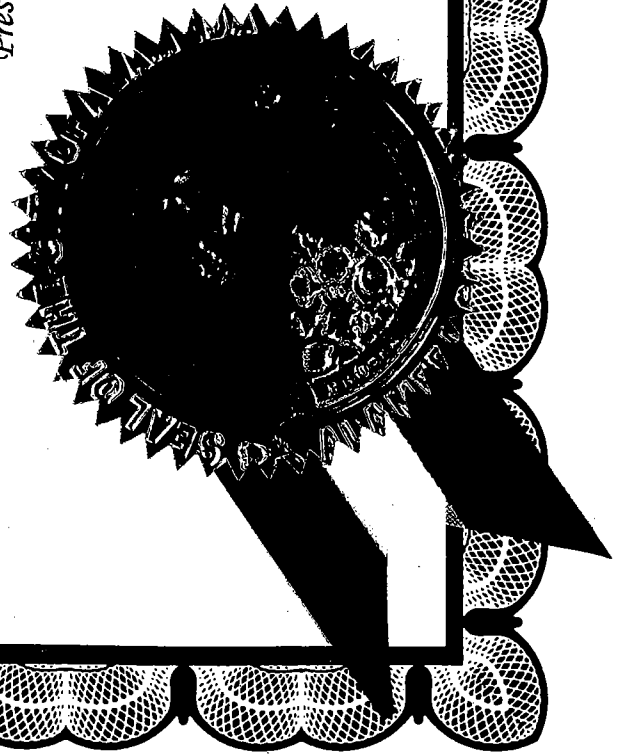
to

Patrick Russi

In recognition of an extraordinary job as part of the Mayor's Fourth of July Parade Committee.

Presented this 2nd Day of August 2005.

*Beverly Johnson
Mayor*



The Mayor and City Council of the City of Alameda Present this

Certificate of Appreciation

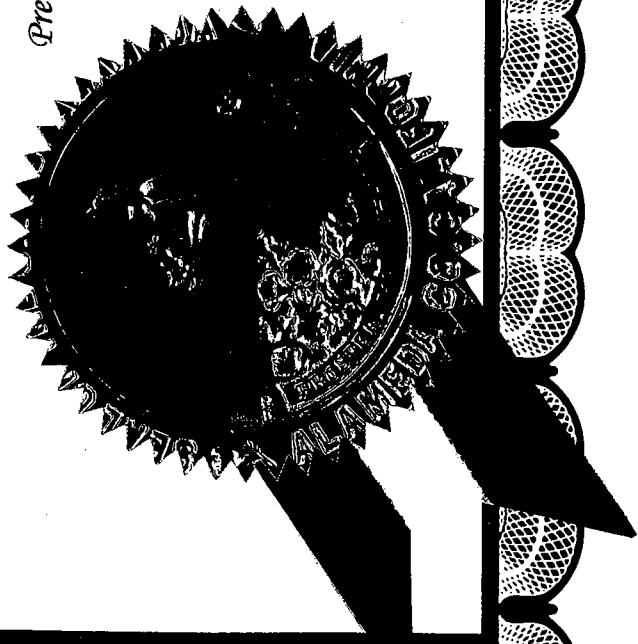
to

Andy Wong

In recognition of an extraordinary job as part of the Mayor's Fourth of July Parade Committee.

Presented this 2nd Day of August 2005.

*Beverly Johnson
Mayor*



The Mayor and City Council of the City of Alameda Present this

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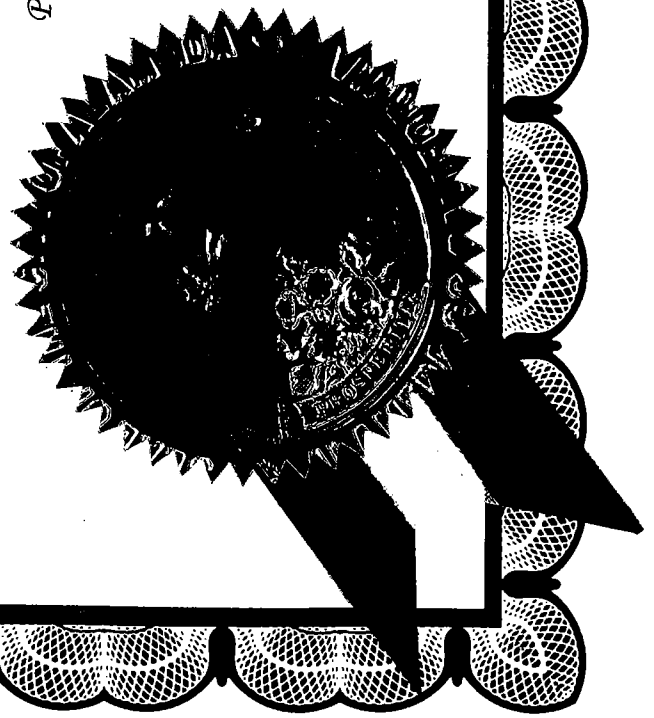
to

Bruce Reeves

In recognition of an extraordinary job as part of the Mayor's Fourth of July Parade Committee.

Presented this 2nd Day of August 2005.

*Beverly Johnson
Mayor*



The Mayor and City Council of the City of Alameda Present this

Certificate of Appreciation

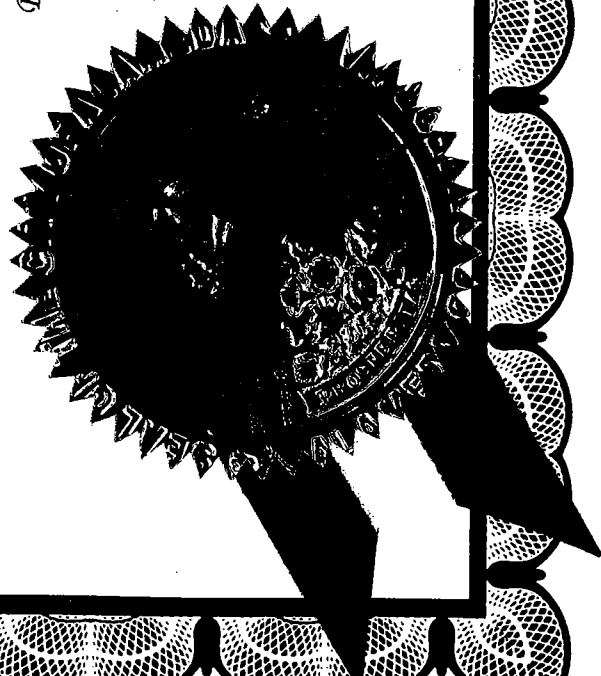
to

Jean Sweeney

In recognition of an extraordinary job as part of the Mayor's Fourth of July Parade Committee.

Presented this 2nd Day of August 2005.

*Beverly Johnson
Mayor*



The Mayor and City Council of the City of Alameda Present this

Certificate of Appreciation

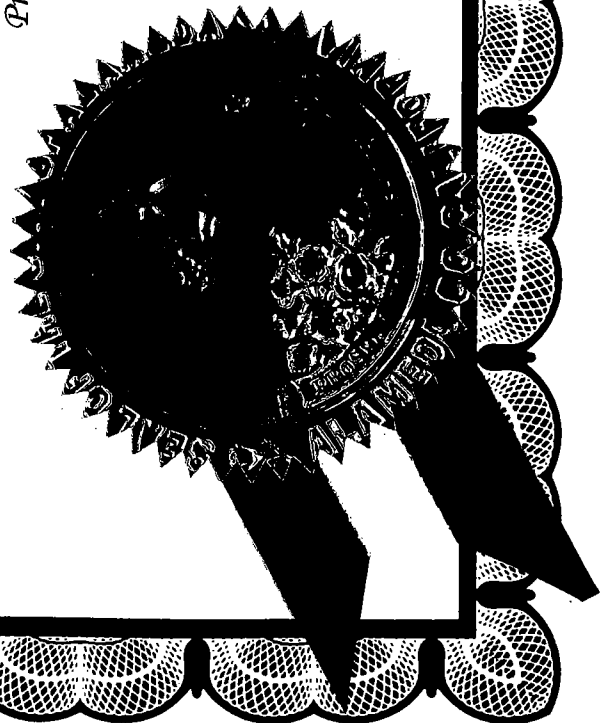
to

Jim Sweeney

In recognition of an extraordinary job as part of the Mayor's Fourth of July Parade Committee.

Presented this 2nd Day of August 2005.

*Beverly Johnson
Mayor*



Proclamation

Whereas, the Housing Choice Voucher Program provides housing assistance to more than 1,600 lower-income Alameda families; and

Whereas, landlords who participate in the Housing Choice Voucher Program provide a valuable service to the Alameda community by helping these families; and

Whereas, Brad Kruck treats his tenants with respect, flexibility and fairness; and

Whereas, Brad Kruck encourages his tenants to view their rental unit as their home; and

Whereas, the City of Alameda and the Housing Authority wish to honor Brad Kruck as an exemplary, dedicated landlord.

Now, Therefore, I, Beverly Johnson, Mayor of the City of Alameda, do proclaim:

Brad Kruck

to be Alameda's 2004 Housing Choice Voucher Program Rental Property Owner of the Year in the three or fewer rental unit category and encourage the community to recognize Brad Kruck for his service to Alameda as a Housing Choice Voucher Program landlord.

Beverly Johnson
Mayor

Proclamation

Whereas, the Housing Choice Voucher Program provides housing assistance to more than 1,600 lower-income Alameda families; and

Whereas, landlords who participate in the Housing Choice Voucher Program provide a valuable service to the Alameda community by helping these families; and

Whereas, Irene Hanson, owner of units at 2249 Central Avenue, treat his tenants with respect, flexibility and fairness; and

Whereas, Irene Hanson, owner of units at 2249 Central Avenue, encourage his tenants to view their rental units as their homes; and

Whereas, the City of Alameda and the Housing Authority wish to honor Irene Hanson, owner of units at 2249 Central Avenue, as an exemplary, dedicated landlord.

Now, Therefore, I, Beverly Johnson, Mayor of the City of Alameda, do proclaim:

Irene Hanson

to be Alameda's 2004 Housing Choice Voucher Program Rental Property Owner of the Year in the four or more rental unit category, and encourage the community to recognize Irene Hanson for his service to Alameda as Housing Choice Voucher Program landlord.

Beverly Johnson
Mayor

CITY OF ALAMEDA
Memorandum

To: Honorable Mayor and
Councilmembers

From: Debra Kurita
City Manager

Date: July 21, 2005

Re: New Main Library Project Update

Attached to this memorandum is the August 1, 2005, Library Construction Report.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Susan Hardie", written in a cursive style.

Susan Hardie
Library Director

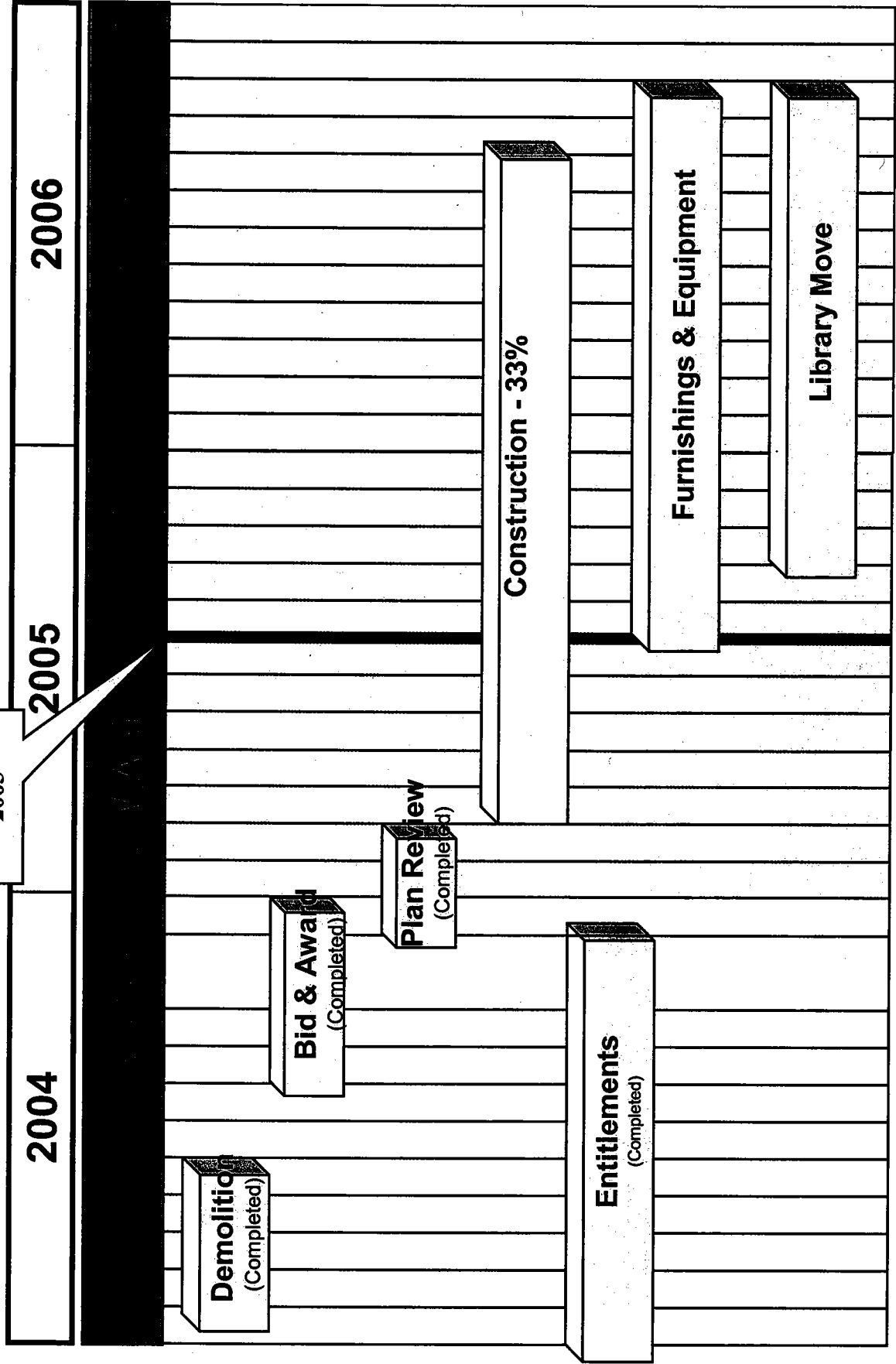
Attachment

Library Construction Report

August 1, 2005

Library Project Timeline

Status as of
August 1,
2005



Construction

- The Library webcam will operate throughout the project. It is available on the Library's and the City's websites.
- Notice to Proceed was issued on March 14, with substantial completion scheduled for September 5, 2006.
- Precast concrete columns and facade will be installed on July 27th and 28th.
- First floor walls are projected to be completed by August 1st.
- Structural steel is scheduled to arrive on August 9th.
- Second floor decking to be installed beginning August 11th.
- The structure is scheduled to be weathertight by December, 2005.
- The project remains on schedule.

Furnishings and Equipment Procurement

- Planning process for FF&E begins August 2005.

Library Move

- Planning process for move begins October 2005.

Library Opening

- The opening of the Main Library is tentatively scheduled for October 2006.

Budget

- The budget report, including supplemental funding sources, is attached.

Budget for Alameda Free Library - New Main Library Project **Inception to date through the month of: June 2005**

Sources of Budgeted Funds	Budget
State Grant	\$15,487,952.00
Measure O	8,000,000.00
Contributions	10,000.00
Supplemental Funding:	
Interest Earned on Measure O Funds	160,000.00
Stafford Bequest	745,297.00
Redevelopment Funding	2,000,000.00
Additional Measure O Funds	670,000.00
Alameda County Waste Management Grant	75,000.00
Recycled Content Grant from Public Works	20,000.00
Sources Subtotal:	27,168,249.00
Expenditures to date:	6,634,793.00
Balance Available:	20,533,456.00
Change Orders:	
Total contingency	1,740,000.00
Change orders to date	0.00
Current change order ¹	(146,796.00)
Revised contingency amount	1,593,204.00

¹Up to \$95,000 in grant funding will be used to offset this change order

UNAPPROVED MINUTES
MINUTES OF THE SPECIAL JOINT CITY COUNCIL AND
COMMUNITY IMPROVEMENT COMMISSION MEETING
TUESDAY- -JUNE 21, 2005- -7:25 P.M.

Mayor/Chair Johnson convened the special meeting at 8:00 p.m.

ROLL CALL - Present: Councilmembers/Commissioners Daysog,
deHaan, Gilmore, Matarrese and Mayor/
Chair Johnson - 5.

Absent: None.

MINUTES

(05- CC/05- CIC) Minutes of the Special Community Improvement Commission Meeting held on April 5, 2005; and the Special Joint City Council, Community Improvement Commission, and Alameda Reuse and Redevelopment Authority Meeting held on June 7, 2005. Approved.

Councilmember/Commissioner Gilmore moved approval of the minutes.

Councilmember/Commissioner deHaan seconded the motion, which carried by unanimous voice vote - 5.

AGENDA ITEM

(05- CC/05- CIC) Joint Public Hearing to review and approve concept of Affordable Rental Housing at Island High as an eligible use of District Housing Fund.

Mayor/Chair Johnson opened the public portion of the Hearing.

There being no speakers, Mayor/Chair Johnson closed the public portion of the Hearing.

The Development Manager for Housing provided a briefing on the proposed concept.

Councilmember/Commissioner Daysog inquired whether there would be a targeted beneficiary for rental housing, to which the Development Manager for Housing responded that the agreement allows the School District to target beneficiaries to the extent allowable by law; stated the School District would prefer to give priority to District employees.

Councilmember/Commissioner Matarrese moved approval of the staff recommendation.

Councilmember/Commissioner Matarrese stated there is an opportunity to provide meaningful, affordable housing.

Councilmember/Commissioner deHaan seconded the motion, which carried by unanimous voice vote - 5.

ADJOURNMENT

There being no further business, Mayor/Chair Johnson adjourned the special meeting at 8:05 p.m.

Respectfully submitted,

Lara Weisiger, City Clerk
Secretary, Community Improvement
Commission

The agenda for this meeting was posted in accordance with the Brown Act.

UNAPPROVED MINUTES
MINUTES OF THE SPECIAL CITY COUNCIL MEETING
TUESDAY- -JULY 19, 2005- -6:00 P.M.

Mayor Johnson convened the Special Meeting at 6:10 p.m.

Roll Call - Present: Councilmembers Daysog, deHaan, Gilmore,
Matarrese, and Mayor Johnson - 5.

Absent: None.

The Special Meeting was adjourned to Closed Session to consider:

(05-) Public Employee Performance Evaluation; Title: City Attorney.

(05-) Conference with Legal Counsel - Existing Litigation; Name of case: Miraglia Enterprises v. City of Alameda.

Following the Closed Session, the Special Meeting was reconvened and Mayor Johnson announced that regarding Public Employee Evaluation, the Council discussed the performance of the City Attorney; regarding Conference with Legal Counsel, the Council gave instructions to the City Attorney.

Adjournment

There being no further business, Mayor Johnson adjourned the Special Meeting at 7:30 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

The agenda for this meeting was posted in accordance with the Brown Act.

UNAPPROVED MINUTES
MINUTES OF THE SPECIAL JOINT CITY COUNCIL AND
COMMUNITY IMPROVEMENT COMMISSION MEETING
TUESDAY- -JULY 19, 2005- -6:55 P.M.

Mayor/Chair Johnson convened the Special Joint Meeting at 7:30 p.m.

ROLL CALL - Present: Councilmembers/Commissioners Daysog,
deHaan, Gilmore, Matarrese, and
Mayor/Chair Johnson - 5.

Absent: None.

The Special Joint Meeting was adjourned to Closed Session to consider:

(05-) Conference with Legal Counsel - Existing Litigation; Name of case: Alameda Belt Line v. City of Alameda, Alameda Belt Line v. City of Alameda, and City of Alameda v. Alameda Belt Line.

Following the Closed Session, the Special Meeting was reconvened and Mayor/Chair Johnson announced that the Council/Commission obtained briefing from the City Attorney/Legal Counsel.

Adjournment

There being no further business, Mayor/Chair Johnson adjourned the Special Joint Meeting at 7:38 p.m.

Respectfully submitted,

Lara Weisiger, City Clerk
Secretary, Community Improvement
Commission

The agenda for this meeting was posted in accordance with the Brown Act.

UNAPPROVED MINUTES
MINUTES OF THE REGULAR CITY COUNCIL MEETING
TUESDAY - - JULY 19, 2005 - - 7:30 P.M.

Mayor Johnson convened the regular meeting at 7:42 p.m. Councilmember deHaan led the Pledge of Allegiance.

ROLL CALL - Present: Councilmembers Daysog, deHaan, Gilmore, Matarrese, and Mayor Johnson - 5.

Absent: None.

AGENDA CHANGES

(05-) Mayor Johnson announced that the Resolution Creating Special Newsrack Districts [05-] would not be heard.

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY AND ANNOUNCEMENTS

(05-) Proclamation recognizing Alamedans for Responsible Transit Shelters (ARTS) and volunteer efforts to install new bus shelters.

Mayor Johnson read and presented the Proclamation to Reyla Graber, Pat Gannon, Jeannie Graham-Gilliat, Lee Harris, and Mel Sanderson; stated that ARTS worked very hard to ensure that there would be unadvertised bus shelters; thanked ARTS and supporters who contributed money to buy the bus shelters.

Reyla Graber thanked the Council for the recognition.

Lee Harris thanked ARTS; stated that he was impressed with the hard work and efforts of everyone involve.

Mel Sanderson, President of the Clara Barton Foundation, stated being available for ARTS was a pleasure.

Susan Decker, Alameda Transit Advocates, thanked the Council and ARTS for working hard to get bus shelters in Alameda; stated she is looking forward to new bus shelters on Park and Webster Streets.

(05-) Presentation by the Park Street Business Association (PSBA) on the 21st Annual Art and Wine Faire.

Blake Brydon, Chair of the Art and Wine Faire, invited the community to attend the Faire on July 30 and July 31 and presented wine glasses to the Council.

CONSENT CALENDAR

Mayor Johnson announced that the recommendation to authorize the Acting City Manager to execute a Contract with Masayuki Nagase [05-___], the recommendation to authorize the Fire Chief to accept the \$404,087 Awarding of the Assistance to Firefighters Grant [05-___], and the recommendation to adopt specifications and authorize Call for Bids [05-___] were removed from the consent calendar for discussion.

Councilmember Matarrese moved approval of the remainder of the Consent Calendar.

Councilmember Daysog seconded the motion, which carried by unanimous voice vote - 5.

[Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(*05-___) Minutes of the Special Joint City Council and Social Service Human Relations Board Meeting of June 23, 2005 and the Special and Regular City Council Meetings held on July 5, 2005. Approved.

Councilmember Daysog requested that the word "scheduling" be inserted prior to "conflict" in the June 23, 2005 minutes [under Roll Call].

(*05-___) Ratified bills in the amount of \$3,960,630.82.

(*05-___) Recommendation to accept the work of Clyde G. Steagall, Inc., for Alameda Point Pier 3 electrical upgrades, No. P.W. 08-02-08. Accepted.

(05-___) Recommendation to authorize the Acting City Manager to execute a Contract with Masayuki Nagase for fabrication and installation of public art work, Cadence of Water, at the new Main Library.

Mayor Johnson stated that she would like to see a better representation of the artwork.

The Library Director introduced Masayuki Nagase; stated Mr. Nagase has created dozens of public art installations and was the unanimous choice of the Art and Recognition Team.

Mr. Nagase stated the artwork consists of eight medallions measuring 4 feet to 7 feet high; the water element theme represents

the City's surrounding bay and beach areas.

Mayor Johnson inquired whether the art would be done in limestone.

Mr. Nagase responded in the affirmative; stated the angle of the forms would catch the morning and afternoon light.

Councilmember deHaan moved approval of the staff recommendation.

Councilmember Matarrese seconded the motion, which carried by unanimous voice vote - 5.

(05-____) Recommendation to authorize the Fire Chief to accept the \$404,087 Awarding of the Assistance to Firefighters Grant for a firefighting training trailer and authorizing funding for the City's matching portion of \$80,817 from the General Fund Reserves.

Mayor Johnson requested that future reports include on-going maintenance and operating costs.

Councilmember Matarrese inquired whether there was an order of magnitude for the maintenance and operating costs for comparison purposes.

The Fire Chief responded that the maintenance costs are expected to be low; the majority of the cost would be for propane gas; there would be an additional cost for moving the trailer out of the area because a diesel truck trailer would be needed.

Councilmember deHaan inquired whether the City has a tractor.

The Fire Chief responded that he has not checked with the Public Works Department; using a City tractor would be the first choice.

Mayor Johnson stated training locally might provide a cost savings.

The Fire Chief stated the closest facility for live fire training is Livermore, which is too far away for on-duty personnel; the community was concerned with the smoke generated by the live fire training at the LinOaks Motel.

Councilmember deHaan moved approval of the staff recommendation.

Councilmember Matarrese seconded the motion, which carried by unanimous voice vote - 5.

(05-____) Recommendation to adopt specifications and authorize Call for Bids for replacement of three (3) marked police vehicles.

Councilmember deHaan inquired whether there was a police vehicle replacement policy currently in place.

The Acting Police Captain responded there is not a standing policy; the general practice is to replace four- to five-year old, higher mileage vehicles; the three vehicles being replaced have higher mileage; the vehicles are driven hard and begin to develop engine problems.

Councilmember deHaan inquired whether the allotment for replacing the three vehicles is in the budget, to which the Acting Police Captain responded in the affirmative.

Councilmember deHaan inquired how many additional vehicles would be replaced during the balance of the fiscal year.

The Acting Police Chief responded none; stated that five marked police vehicles are usually replaced every year; only three vehicles are scheduled for replacement this year.

Councilmember deHaan stated that the Council requested a more detailed Citywide vehicle inventory.

Vice Mayor Gilmore stated there should be a written, Citywide policy; noted Police Department needs would differ from Public Works; stated the supplemental report indicates other cities replace vehicles at higher mileage; requested that the policy include mileage replacement comparisons with other cities and explanation of why the City replaces vehicles with lower mileage.

The Acting Police Captain stated that a 65,000 to 75,000 mile vehicle replacement is not abnormal; the City garage mechanic is concerned with the idle hours.

Vice Mayor Gilmore stated that the number of vehicles that are replaced may not be the same as before because of tough budget times; the City might need to go longer before replacing vehicles.

Councilmember deHaan stated that he looks forward to receiving a policy with input from the Public Works Department; inquired what would be the impact if a six-month deferral; inquired whether vehicles have hour meters.

The Acting Police Captain responded that hour meters are not installed; a six-month deferral would be difficult; the vehicles take a beating.

Councilmember deHaan inquired whether the three vehicles are currently in service, to which the Acting Police Captain responded in the affirmative.

Councilmember Daysog stated the Council should review vehicle replacement in terms of protection and service to the residents; the Police Department needs the best equipment or there could be safety issues; six-month deferral is not an option.

Mayor Johnson stated more detailed information on vehicle maintenance costs is needed; there is no explanation why the vehicles are to be replaced.

The Acting City Manager stated that the matter would be brought back to the Council in August with more information.

Councilmember Matarrese stated the matter should be brought to Council with more justification on why the three vehicles need to be replaced; inquired whether the vehicles have failed in the field and whether there has been a lapse in service, other problems or potential safety issues.

The Acting Police Captain responded there have not been signification problems with the vehicles failing in the field; history has shown that as mileage increases problems could arise.

Vice Mayor Gilmore requested information on trade-in value; stated the City might get a higher trade-in value now than in a year.

The Acting Police Captain stated that vehicles become inoperable because of safety reasons; vehicles need to be available.

Councilmember deHaan inquired the number of vehicles and the number of employees assigned to the vehicles, to which the Acting Police Captain responded 23 vehicles are used by 43 officers.

Councilmember deHaan inquired how much a police vehicle costs, to which the Acting Police Captain responded \$32,000.

Councilmember Matarrese concurred with Councilmember Daysog regarding not deferring replacement for six months.

Councilmember deHaan inquired how many hours per day vehicles are used, to which the Acting Police Captain responded that the majority of the vehicles are used 24 hours per day.

Mayor Johnson requested that a written policy be brought back to the Council at the first or second City Council meeting in August.

Councilmember deHaan requested that the policy address all vehicles Citywide.

Mayor Johnson requested that the policy address all police vehicles, not just patrol vehicles.

(*05-) Recommendation to appoint Lee Perez as a representative to the Oakland Chinatown Advisory Committee. Accepted.

(*05-) Recommendation to authorize the Acting City Manager to execute an amendment to the Contract with MV Student Transportation, increasing the budget by \$8,000, and extending the Contract to August 15, 2005. Accepted.

(*05-) Recommendation to approve an Agreement with Holland & Knight, LLP in the amount of \$40,000 for federal legislative advocacy, and appropriate the \$40,000 from the General Fund reserves. Accepted.

(*05-) Resolution No. 13874, "Approving Parcel Map No. 8574 (Harbor Bay Parkway and North Loop Road)." Adopted.

(*05-) Resolution No. 13875, "Adopting the Findings for the Non-Native Spartina Eradication Program Contained in the Final Programmatic Environmental Impact Statement/Environmental Impact report Prepared by California State Coastal Conservancy, Adopting a Mitigation Monitoring Reporting Program and Statement of Overriding Considerations, and Approving an Agreement for Funding from the State of California Coastal Conservancy to Implement Spartina Eradication and Mitigation Measures." Adopted.

(*05-) Resolution No. 13876, "Granting Another Designated Period for Two Years Additional Service Credit as Provided for Under Contract Amendment between the City and the Public Employees' Retirement System and California Government Code Section 20903." Adopted.

(*05-) Adoption of Resolution Creating Special Newsrack Districts in Both the Park Street Business and the West Alameda Business Districts as Authorized in Alameda Municipal Code Section 22-7, Newspaper and Periodical Vending Machines of Article I Streets), Chapter XXII (Streets and Sidewalks). **Not heard.**

(*05-) Resolution No. 13877, "Authorizing Filing of a Notice of Exemption for Acquisition of the Alameda Belt Line." Adopted.

(*05-) Resolution No. 13878, "Accepting the Findings of the

Cross Alameda Trail Feasibility Study." Adopted.

REGULAR AGENDA ITEMS

(05-____) Resolution No. 13879, "Appointing John W. KnoxWhite as a Member of the Transportation Commission." Adopted; and

(05- A) Resolution No. 13880, "Appointing Eric Schatmeier as a Member of the Transportation Commission." Adopted.

Councilmember Matarrese moved adoption of the resolutions.

Vice Mayor Gilmore seconded the motion, which carried by unanimous voice vote - 5.

The City Clerk administered the Oath of Office and presented the members of the Transportation Commission with Certificates of Appointment.

(05-____) Public hearing to consider revisions to the Development Regulations (ZA05-0003) contained within Chapter XXX of the Alameda Municipal Code (AMC), more commonly referred to as the Zoning Ordinance, with respect to building height limits and number of stories; exceptions to minimum side yard requirements for additions to existing residences, the definition for "replacement-in-kind", off-street parking regulations and reconstruction of non-conforming residential structures; and

(05 A) Introduction of an Ordinance Amending the Alameda Municipal Code by Amending Various Sections of Chapter XXX (Development Regulations). Introduced.

The Supervising Planner gave a brief overview of the proposed revisions.

Mayor Johnson inquired whether the "replacement-in-kind" definition would apply to the design guidelines and solve problems that residents are having at Harbor Bay when replacing aluminum-sliding windows.

The Supervising Planner stated that the guidelines state that materials that are appropriate for the style of the house should be used.

Mayor Johnson stated residents should not have to go to the Planning Board to replace windows because of staff's interpretation of the guidelines; Harbor Bay residents are not getting permits because they have been told aluminum-sliding windows are not

allowed.

The Supervising Planner stated that she was not aware of staff disallowing aluminum sliding windows as long as the windows were an appropriate style for the house.

Mayor Johnson stated that "appropriate style" is a very subjective term; muntins are prohibited; Council did not intend to have any prohibitions when the guidelines were approved.

The Supervising Planner stated the guidelines include a one-year trial period to iron out the bugs.

Mayor Johnson stated that the Council adopted the guidelines with the understanding that they would be reasonably applied; a Citywide prohibition would require that the matter be brought back to the Council.

Councilmember Matarrese stated that the guidelines do not prohibit anything, but provide direction.

Mayor Johnson stated that internal muntins between double-paned windows are prohibited Citywide; the Council did not have any expectation that there would be prohibitions in the guidelines.

The Acting City Manager stated that internal muntins are addressed under a heading of what should be allowed; that staff has been given direction to review each case individually.

Mayor Johnson stated that the City has a diverse housing type; there cannot be one rule that applies to every house.

Councilmember Daysog stated that he was concerned with changing requirements for second story setbacks; noted there have been two or three issues regarding blockage of sunlight in the past two years; that he would like to have a separate vote on second story setback regulations if the matter is voted on tonight.

The Supervising Planner inquired whether Councilmember Daysog was referring to the three-foot setback which allows going straight up or the additional two-foot setback required with an existing five-foot setback.

Councilmember Daysog responded that he was referring to remaining with the status quo in all instances; a process can be followed to receive an exception.

Councilmember deHaan inquired whether an existing roof pitch could

be replicated.

The Supervising Planner responded as long as the height limit is not exceeded.

Councilmember deHaan stated that closing down the roof pitch to stay within the height limit creates architectural problems.

Mayor Johnson opened the Public Hearing.

Proponent: Ken Carvalho, Alameda.

There being no further speakers, Mayor Johnson closed the Public portion of the Hearing.

Councilmember deHaan moved introduction of the ordinance with the direction to review roof pitch and window issues.

Councilmember Daysog requested to have a separate vote on second story setbacks.

Councilmember deHaan amended his motion to exclude second story setbacks.

Councilmember Matarrese seconded the motion, which carried by unanimous voice vote - 5.

Vice Mayor Gilmore moved introduction of the ordinance provisions on second story setbacks.

Councilmember Matarrese seconded the motion, which carried by the following voice vote: Ayes: Councilmembers deHaan, Gilmore, Matarrese, and Mayor Johnson - 4. Noes: Councilmember Daysog - 1.

(05-____) Public hearing to consider Zoning Text Amendment (ZA05-0002), amending Alameda Municipal Code Section 30-4.8(c) to add "Boutique Theater" as an allowable use in the C-1 zoning district, subject to Use Permit approval. Applicant: Alameda Theatre Project Inc. Address: All Neighborhood Business Districts (C-1);

(05- A) Resolution No. 13881, "Adopting a Negative Declaration for ZA05-0002." Adopted; and

(05- B) Introduction of an Ordinance Amending the Alameda Municipal Code by Declaring Boutique Theaters to be Uses Permitted by Use Permit within the C-1 Neighborhood Commercial Zoning District of Chapter XXX (Development Regulations). Introduced.

Mayor Johnson opened the Public Hearing.

Proponents: David Hart, Alameda; David Kirwin, Alameda; Jon Spangler, Alameda; Susan Older, Alameda; Peter MacDonald, representing Mark Haskett; Blake Brydon, Alameda; Bernard Clark, Alameda; Mark Haskett, Alameda; and Ami Dimusheva, Alameda.

Opponent: Former Councilmember Barbara Thomas, Alameda.

There being no further speakers, Mayor Johnson closed the public portion of the Hearing.

Mayor Johnson requested staff to respond to the issue of providing notice to C-2 zoning areas [raised by Ms. Thomas].

The Supervising Planner stated the C-2 Zoning District permits theaters, including movie theaters, as a permitted use; theaters do not have to go through the use permit process that the proposed text amendment would require for the C-1 district.

Mayor Johnson inquired whether the [movie theater] use is already permitted in the C-2 district, to which the Supervising Planner responded in the affirmative.

Councilmember Matarrese stated speakers were surprised that the matter was before the Council; the normal process is being followed; nothing is being hidden; the process is completely open and public; the public should be aware that the action is not redundant and is the way business is conducted.

Mayor Johnson noted the Council had not considered the issue before.

Councilmember deHaan stated that he is concerned that seventeen areas could be affected; hopefully, there are enough safeguards; not all [C-1] areas have the same attributes of the [theater] location on Central Avenue; inquired whether there are outstanding code issues at the cinema.

The Acting City Manager responded the one [outstanding] issue is the projection booth; stated the Applicant has been working cooperatively with the Building Department; the issue is clearance around the projector.

Councilmember deHaan inquired whether the initial life safety issues were resolved, to which the Acting City Manager responded in the affirmative.

Councilmember deHaan inquired when the outstanding [projector] issue would be corrected.

Mr. MacDonald, the Applicant's attorney, responded that the Applicant has all materials ready to be submitted tomorrow; the Building Official cannot accept the application until after the zoning change is approved.

Vice Mayor Gilmore stated the Planning Board does not have the authority to enact zoning changes and only makes recommendations to the Council; therefore, the matter had to come before Council; the matter before the Council is not approving the Central Cinema; the change will affect seventeen zones in the City; other people might consider a similar business if Mr. Haskett is successful; the approval is not for just one theater in one location; that she is concerned that there could be more than one boutique theater in a neighborhood.

Mayor Johnson stated that she is interested in just rezoning the one C-1 district [at Central Avenue and 9th Street]; noted the Council was not approving just Mr. Haskett's operation; stated Mr. Haskett could sell the business and neighbors might not like the new owner or the types of movies the new owner shows; the Rocky Horror Picture Show could be shown three times a day seven days a week; the City can only regulate adult movies; the approval would allow other cinemas in other areas with other operators; inquired whether there could be a restriction that if Mr. Haskett sold his operation, the Use Permit would not go to the next operator.

Mr. MacDonald stated that he was asked to respond publicly as to whether they would consent to the request; the rule is that a Use Permit runs with the land and cannot be personalized; the general rule is that there are considerations built into the Use Permit to allow the Use Permit to be revoked if things happen which are not consistent with the Use Permit.

Mayor Johnson stated the City can only regulate adult movies; there might be another type of operator that would want to take over the business; the neighbors like Mr. Haskett and like what he is doing; her concern is that he might sell the business.

Mr. MacDonald stated one reason people build up businesses is to have something that can be sold; not being able to sell the business means said effort could never be achieved; to regulate the type of movies or operators are over and above the terms of reasonably conditioned Use Permit and would destroy the value of the business.

Mayor Johnson stated the neighbors should understand that if Mr. Haskett sells his business to someone else, they might not like the types of movies the next operator shows.

Mr. Clark stated the issues being raised are valid; there should not be concern over the type of movies showing, other than adult movies; the use would be revoked if anything caused a public nuisance, such as being too loud.

Mayor Johnson stated that she would not want a theater in her neighborhood; that she has concerns with imposing the regulation on the sixteen other C-1 zoning areas and is not convinced that the zoning could not be changed for just the one area.

Vice Mayor Gilmore stated the permit runs with the land; basing a decision on a particular owner is a bad policy; her decision will be based on the merit of the use, not the owner.

Councilmember deHaan requested staff to address whether the use could be limited to just one area.

The City Attorney stated the Mayor prefers to deal with the one case, rather than Citywide; after analyzing the law carefully and understanding said preference, she has to take responsibility for the legal opinion that the issue must be dealt with Citywide.

Mayor Johnson inquired why two or three [C-1] districts in more commercial areas could not be made a different zone; stated there are C-1 zones in the Park Street and Webster Street areas adjacent to more commercial areas; some C-1 zones are in very residential areas; inquired why a few C-1 zones could not be called something different and boutique theaters could be allowed in said areas, without changing the existing geographic boundaries.

The Supervising Planner stated staff tried to create criteria for the C-1 districts; finding a solution is very difficult because the areas are so diverse; the amount of traffic was reviewed; all districts have adjacent residential areas.

Mayor Johnson inquired why three districts in more commercial areas could not be renamed and boutique theaters could be allowed in said areas; stated the geographic area of the zoning district would not be changed; only the name would be changed and boutique theaters could be permitted.

The Supervising Planner stated if Council could direct which districts and why, staff could review the matter; staff was having difficulty with determining why [the reason for selecting said

districts].

Mayor Johnson stated the Council could not do so tonight.

Councilmember Matarrese inquired whether live theater with unlimited seating is already allowed in all C-1 districts, to which the Supervising Planner responded in the affirmative.

Councilmember Matarrese stated putting a ceiling of 49 seats restricts risk to and impact on the neighborhood; the same concerns exist with live theater; some performances might not be wanted in neighborhoods; allowing a movie theater has less impact than a live theater; there is not a huge risk; the existing business would be legalized; that he would be happy with only selecting several of the areas as a trial; there is not a great impact on the other sixteen districts since live theaters with unlimited seating are permitted.

Mayor Johnson stated that she does not have a problem with Central Cinema, but would like to restrict the regulation as much as possible; if the use could be restricted to a small number of C-1 areas or if very residential C-1 areas could be eliminated, the City should do so; although live theater has been allowed for a long time, allowing boutique theaters now should be done in a more restrictive way; that she supports the station business districts, which are part of Alameda's history; the stations have to keep going to create a walk-able community; however, the areas have conflicts because residences are adjacent to businesses; that she would like to go forward with Central Cinema, while restricting the use to as few C-1 areas as possible; the matter of limiting the areas has not been thoroughly reviewed.

Councilmember deHaan inquired whether there have been requests for live theaters in other areas, to which the Supervising Planner responded the only one she is aware of is the Altarena.

The Acting City Manager stated staff had multiple meetings on how to reduce the number of areas; there was concern about spot zoning; staff did extraordinary noticing to ensure residents around the station areas were aware of the proposed change; the Council could move forward tonight and staff could come back at a later date to undo portions [limit number of districts].

Mayor Johnson stated her goal is to limit the use to as few areas as possible; one idea is to name several areas a different zoning district; people do not notice use until there is a problem.

Councilmember Daysog stated [Central Cinema's] start was high

drama, but has potential to be a feel good story; time will only tell if the Cinema will be a one hit wonder or a movie for the ages; the issues that the Mayor is bringing up can be tackled; there is enough information to proceed with the action tonight; issues raised can be addressed; that he doubts many people will submit applications for theaters; there is a window of opportunity to move forward with the theater.

Councilmember Matarrese requested staff to review making the boutique theater regulations apply to all theaters, eliminating the possibility of having a 200 seat live theater.

Mayor Johnson concurred with Councilmember Matarrese's suggestion; stated that staff could review both issues.

The City Attorney stated the Council could direct that the zoning text amendment be brought to the Planning Board for an additional amendment in terms of applying restrictions on live theater.

Councilmember Matarrese stated a flood of people will not try to get into the theater business; there is cap on the number of seats; the risk is fairly low; the regulations provide definition for what is already an unrestricted business; the two seem no different, except for the fact that there would be a movie projector instead of actors in front of the audience.

Mayor Johnson stated that she supports the suggestion to go forward and bring back modifications; concurred with Councilmember Matarrese's suggestion to restrict live theaters.

Councilmember Matarrese moved approval of the staff recommendation [adoption of the resolution and introduction of the ordinance] with the direction to come back with modifications to provide better control and planning, including exploring limiting the number of districts where the activity will be allowed.

Councilmember Daysog seconded the motion, which carried by the following voice vote: Ayes: Councilmembers Daysog, deHaan, Matarrese and Mayor Johnson - 4. Noes: Vice Mayor Gilmore - 1.

Vice Mayor Gilmore stated that she could not support the change based on the merit of the operator instead of policy; the modifications that will return might address her concerns.

(05-) Recommendation to approve a revised Donor Recognition and Named Gifts Policy for the Library.

The Acting City Manager noted that staff provided a new set of

photographs.

Mayor Johnson inquired whether name plaques would be placed on shelves, to which the Library Director responded in the affirmative.

Mayor Johnson inquired whether the names would remain on shelves forever; stated \$100 does not seem high enough for having a name remain forever.

The Library Director stated the names remain for the life of the item, not the life of the library; the name would not remain if a shelf is replaced.

Mayor Johnson stated \$100 does not seem like a large amount.

The Library Director stated setting a reasonable amount could raise a lot of money; \$1 million was raised mostly from \$100 shelves in another library.

Councilmember Matarrese noted shelves, which only cost \$100, might last longer than chairs, which are \$500; stated that the policy is a good way to raise money.

Councilmember deHaan inquired whether there is maintenance involved with the plaques.

The Library Director responded possibly, but problems with plaques are minimal.

Councilmember deHaan stated plastic plaques could be damaged.

The Library Director stated an inexpensive, but durable and attractive, shelf tag would be used.

Dr. Jephtha Boone, Alameda Free Library Foundation President, stated the foundation was formed 6½ years ago to raise money for the library; the foundation has raised \$65,000 and is trying to raise \$600,000 for art, branches and collections; urged approval of the policy.

Councilmember deHaan moved approval of the staff recommendation.

Councilmember Matarrese seconded the motion, which carried by unanimous voice vote - 5.

(05-) Consideration of waiving attorney client privilege of September 12, 2003 and April 10, 2001 legal opinions regarding

vehicle allowance for City Manager and City Attorney.

The City Attorney stated that she would step down during the agenda item and the next agenda item [paragraph no. 05-___], which have to do with her Contract.

Mayor Johnson stated that the Council has a copy of the legal opinion; Council can vote to make it available to the public; there is nothing in the opinion that needs to be confidential.

Councilmember Matarrese moved approval of waiving attorney client privilege restrictions on the memos.

Vice Mayor Gilmore seconded the motion, which carried by unanimous voice vote - 5.

Mayor Johnson stated the opinion is an interpretation of a Contract provision; last year, she was informed that the City Manager's vehicle allowance had increased; in November, she asked the City Attorney to review whether the City Manager's vehicle allowance had changed; the response she received back was it had not changed; a Councilmember then learned that the vehicle allowance for the City Manager was \$372; Councilmembers questioned how the vehicle allowance was increased because the Contract states that the vehicle allowance is \$250; Council asked the Human Resources Director to check on the matter; last week, the response back from the Human Resources Director was that a legal opinion was obtained from outside counsel that indicated that the vehicle allowance should be increased because of a change in tax; the reason the matter is on the agenda is because her response to the Acting City Manager was that the amount should stay the same and should remain the \$250 in the Contract until the Council agrees to change the amount; that she requested that the Acting City Manager change the amount back to \$250 and he stated that the Council should give direction on the matter, which is why she placed the matter on the agenda; the Council should determine what happened and has wondered why the amount is higher than the amount in the Contract; the Council should decide whether the vehicle allowance stays the higher amount or goes back to the Contract amount; there should be a Contract amendment; that she is interested in other Councilmembers' thoughts; that she does not recall seeing the legal opinion; in 2001, the memo to the City Attorney from Linda Tripoli states: "You have asked this office for a legal opinion relative to an issue that has arisen with regard to the car allowance;" the opinion is dated April 10, 2001; that she understands that the change in amount did not go into effect until October, 2003; that she does not recall seeing the opinion in 2001 or 2003; when she asked in 2004, she was informed that there were no changes; that

she is sure the response meant there was no change in the net amount of the vehicle allowance, but there had been a change in the gross amount; noted the Human Resources Director was present if anyone has questions.

Councilmember Matarrese stated that when a salary is provided in a Contract, Council does not have someone go back later and adjust the salary so that the net after taxes is the amount stated in the Contract; that he views the vehicle allowance in the same fashion; upholding the Contract and putting the amount back to \$250 is simple.

Vice Mayor Gilmore inquired whether the \$250 was net when the Contract was enacted and something happened, such as a change in the IRS code, to make the amount no longer net.

Mayor Johnson stated the amount in the Contract is \$250; there was a change in the tax code; the amount became taxable; the benefit in the Contract was not stated as a net amount; it is a question of fact, not laws; the question [of increasing the amount] should have been addressed to the Council, not an outside attorney.

The Human Resources Director stated that she does not know the tax Code or if any changes were made to the tax Code; the benefit was non-taxable when first provided and then became taxable, which is why the legal opinion was given to the City Attorney; the opinion was sent to the Finance Director who continued to provide the benefit as a tax-free benefit for the next year to year and a half; after said time, it was discovered that the benefit should be taxable and put into the payroll system as a taxable benefit; the additional memo came forward to state that if the vehicle allowance is going to be a taxable benefit, the net amount needs to be \$250 per month.

Councilmember deHaan stated the opinion was for the two Contracted positions of City Attorney and City Manager; inquired how the legal opinion would apply to the \$250 allowance given to other Department Heads; inquired whether other Department Heads were not entitled to the adjustment since they are not under Contract.

The Human Resources Director responded that she does not know the exact language of the Contracts for the City Manager and City Attorney; that she cannot appropriately answer the question; auto allowance for all other employees is through the payroll system and is a taxable benefit.

Councilmember deHaan stated there could be a major impact if the legal opinion was exercised all the way through the system; the

amount of the car allowance would depend on the amount of money a person makes; the more an individual makes, the higher the car allowance would be.

The Human Resources Director responded in the affirmative; stated taxes are based upon income.

Councilmember Daysog stated the City Manager and City Attorney received a check for \$250 with no taxes taken out before 2001; something happened, whether an IRS ruling or direction was to have the car allowance go through payroll; the amount would be reduced with taxes assessed; the issue then becomes a labor contract issue of good faith; the \$250 amount was negotiated on a good faith basis; a staff member, such as the Finance Director or Human Resources Director, with Linda Tripoli's letter from April, 2001, opined that the amount would have to be increased in order to remain whole at \$250; in the highest tax rate, mathematically the cost would be roughly \$80 on the federal side and 11-12% on the State side, which comes out to roughly \$370; that he does not see the problem.

Mayor Johnson stated that in her opinion, the problem is that the matter should have come to the Council; when the Council approves a Contract that states the person receives \$250 per month, the amount is \$250 per month; if there is a subsequent tax change or ruling that makes the amount taxable, the matter should come to Council to ask if the amount should be \$250 or increased now that taxes have to be paid on the amount; the matter is not really a legal issue, rather it is a matter of determining whether the Council wants to change the amount now that there is a tax consequence.

Councilmember Daysog stated the Council's intent was always to keep the amount at \$250; that he cannot imagine that the Council wanted the amount lowered in 2001; that he can only imagine that the memo issued in 2001 and circulated to the City Council was consistent with what the Council wanted.

Mayor Johnson stated the clearest way to know what the Council intended would be to ask the Council; Council sets amounts for salaries, vehicle allowances for other people, and all kinds of things, which are always gross, not net; many benefits provided have tax consequences.

Councilmember Matarrese stated it is a question of process, not amount; the process should be that if there is a change that incurs a higher dollar outlay than what was done before or if there is a question of intent, the matter, under Contract or Memorandum Of Understanding (MOU), should come to the Council; the issue is not

hugely complicated; that [bring the matter to Council] should be the rule now; before, the intent was interpreted by individuals.

Councilmember Daysog stated the memo was circulated to Council.

Mayor Johnson stated that she is not sure the memo was provided to Council; the memo went to Finance in 2001 and indicated a copy went to Council, but Finance never implemented the change; that she questions whether the memo even went to Finance in 2001.

Councilmember Matarrese stated the policy that he is looking for is that if there is a dollar figure in a contract, that the matter should return as a Contract or MOU amendment.

Mayor Johnson stated sending a copy of a memo to the Council is not a way of notifying the Council.

Councilmember Matarrese stated the question is not notification; the question is approval; there is an easy fix: going forward, all changes will come to Council for a vote.

Councilmember deHaan concurred with the suggestion; stated policy should be set going forward; the Contract for the new City Manager states that the amount is a fixed amount; a new Contract is being negotiated with the City Attorney and the matter can be clarified; inquired what will be done in the interim in the next five months; stated putting the matter in the open to understand how the City reached the current status is good; safeguards can be put in place.

Mayor Johnson stated the Council voted to make the legal opinion a public document and should call the next agenda item to address the policy.

(05-____) Discussion and recommendations regarding City Manager and City Attorney contract provisions pertaining to vehicle allowance limit.

Councilmember Matarrese stated his previous comments [under the previous agenda item, paragraph no. 05-____] hold.

Mayor Johnson and Councilmember deHaan concurred.

Councilmember Daysog that he does not have a problem with the direction to have issues come back to the City Council; however, when he received the legal opinion in 2001, he felt it was consistent; going forward, Council's request for everything to come before Council is acceptable.

Councilmember deHaan stated actions should be done equitably among the rest of the people who receive automobile allowances and; adjustments should have been made accordingly after the opinion.

Councilmember Daysog stated the car allowance for others is taxable and done through payroll.

Mayor Johnson stated the amount is a gross amount; if the car allowance for other employees is \$250, like the City Manager and City Attorney, the amount is taxable and other employees receive \$160.

Councilmember deHaan stated a select two were isolated to receive the adjustment, rather than reviewing how the law effects other employees.

Mayor Johnson stated changes in the Contract should be done through a vote of the Council; sending a carbon copy to the Council is not a vote of the Council; the Council can only act by voting and cannot act by non-response or consent by silence; concurred with Councilmember Matarrese's comments that it is a process question; the process that was used was not appropriate.

Councilmember Daysog stated that he has a problem with stating that something that happened in 2001 was inappropriate; any Councilmember could have objected when the memo was received; no one objected; things are being done differently in the new era.

Mayor Johnson stated the Council should have clear expectations of how to handle Contract amendments.

Vice Mayor Gilmore stated the Council is indicating how the matter will be handled in the future.

Mayor Johnson stated the Council has to vote to change a Contract.

David Kirwin, Alameda, stated that extra benefits always have to be declared for tax purposes; Council seems to be putting the benefit on payroll and covering the tax burden, which seems awkward.

Mayor Johnson stated the Council is trying to undo the past practice [of covering the tax burden]; Council wants to have the amount set as the amount the employee receives regardless of the tax consequences.

Councilmember Matarrese stated a decision has not been made [about setting the vehicle allowance amount]; that he was only requesting that changes require a vote of the Council.

Mayor Johnson stated that her preference would be to set the [gross] amount at \$250; the matter can be addressed when the new Contract with the City Attorney is negotiated; inquired the clearest way to make a record of the fact that any changes to Contracts have to be brought to the Council for a vote; inquired whether the action should be a resolution.

The Acting City Manager responded staff could bring the matter back to Council.

Mayor Johnson inquired whether the matter would return as a resolution, to which the Acting City Manager responded in the affirmative.

Councilmember Matarrese stated Council would address the [vehicle allowance] amounts later.

Vice Mayor Gilmore noted the item brought back would be a policy.

(05-____) Proposal for City Council Oversight on Expenditures from Outside Counsel Appropriations.

Mayor Johnson stated the matter was on the Closed Session Agenda at the last meeting; the matter was continued to tonight because the preference was to address the matter in open session.

The City Attorney stated the proposal has limitations on spending, settlement authority, additional reporting requirements and limitations on the hiring of outside counsel through an RFP process, creating four outside counsel panels.

Mayor Johnson stated that her intent is not to limit the amount of money the City spends on outside counsel; costs cannot be known ahead of time; the amount is not her concern; her concern is the hiring of outside counsel; approving the hiring of outside counsel can be brought to the Council without a dollar limit; there is concern about litigation strategies and not setting dollar parameters because the other side can be tipped off about how committed the City is to the litigation; that she does not understand why the matter cannot be brought to the Council stating the attorney to be hired for the particular case; the Council approval could have no dollar information included; the names of counsel and how much is paid per month is in the bills for ratification; who represents the City is not a secret; the amount and budget need to be kept confidential; the Council has indicated the City Attorney should be given authority to cover exigent circumstances; the Council does not want a special meeting every

time the City is sued; inquired whether there would be a problem with setting an amount to cover the interim period and bringing the authority to hire outside counsel to the City Council, without limitation on dollar amounts.

Vice Mayor Gilmore stated there should not be a special meeting for \$3,000 if the City Attorney needs to hire a transactional attorney or if there is a tax question that comes up through the Finance Department.

Mayor Johnson concurred with Vice Mayor Gilmore.

Vice Mayor Gilmore stated that if a dollar amount were not set, the Council would be involved in a \$3,000 decision to hire a tax attorney.

Mayor Johnson stated Council could discuss a dollar limit; if the Council had known about hiring Linda Tripoli to give an opinion on vehicle allowance, Council might have paid more attention to the issue; the Council should know who is working for the City, what people are being hired to do and why; that she does not have problem with a limit if the issue is minor.

Vice Mayor Gilmore stated, that if the Council wants to know who is being hired, the question comes down to timing; inquired how quickly the Council should be informed after legal counsel is hired; stated there is a proposal for quarterly financial reports on the cost of outside counsel, including who the outside counsel is for each matter.

Mayor Johnson stated in a lot of cases the Council could give approval before outside counsel is hired; a lot of the hiring does not need to be immediate; regular Council meetings are twice a month; the City Attorney can hire someone and bring the matter to Council for approval at the next meeting in cases when there is not time; the Council does not want to have special meetings all the time; that she does not like the system that is in place now; the Charter states that the Council consents to the hiring of outside counsel; Council is currently consenting to hiring over \$800,000 worth of outside counsel through a line item budget allocation; the Council needs to exercise more oversight; Council can discuss the level of consent that should be set; it is a change from what has been done the past 16 years; the Council needs to exercise more oversight than in the past.

Vice Mayor Gilmore concurred with Mayor Johnson; stated that she is unclear of how the Mayor proposes to do so; the City Attorney provided a proposal; inquired whether the proposal could be

reviewed.

Mayor Johnson responded in the affirmative.

Councilmember Matarrese inquired what the typical lead-time is from the time the City Attorney knows outside counsel is needed to the time outside counsel is hired.

The City Attorney responded usually the same day the City receives a lawsuit; for example, in a recent lawsuit, the City had 30 days to answer but in the interim the City had a motion for preliminary injunction; within 24 hours of receiving the notice, the Council would receive a paragraph describing the lawsuit received; the immediate notification to the Council would include a description as to what the City Attorney intends to do; a component would be the discretion would be limited through the [counsel] panels, so the Council would know who the City Attorney's office would be selecting; the panels would be reviewed annually; the reason for the immediacy is due to the requirement to respond immediately; there is a balance because when litigation is received, by the next meeting, the Council could indicate that it does not approve of what is being done and how it is being done; the practical reality is that within the first two weeks, significant initial work would be done, which is why the proposal might not be the perfect solution; a lot of knowledge will be given to the Council; there could be additional oversight and opportunities for change after seeing how the proposal works.

Councilmember Matarrese inquired whether \$35,000 would cover two weeks.

The City Attorney responded \$35,000 was picked as the average cost of litigation; the City Attorney's office actually totaled up costs and \$35,000 was the average cost; 50% of the cases are more than \$35,000 and 50% are less; the Council will know about the matter within 24 hours, get a report and budget within 30 days, and have the opportunity to schedule the matter for closed session; anything which is significant, such as a bigger case, will automatically go to Council for approval in a closed session; Council will know [about lawsuits] within 24 hours and always have the opportunity to request the matter be placed on the agenda; the City Attorney's discretion in the selection of outside counsel will be from the competitively selected panels of attorneys.

Councilmember Matarrese stated the Charter states: "The Council, or any board with the consent of the Council, may empower the City Attorney, at his request to employ special legal counsel;" what is being discussed is how the Council empowers the City Attorney to

make choices; a practical approach is to empower a certain dollar amount to get the ball rolling since Council meets every two weeks; the empowerment lasts only until the next Council meeting and the matter is discussed if the amount would be higher, which is why he was asking about the \$35,000; using said amount is acceptable if the amount can carry the day; the Council has to meet its Charter obligation to empower the City Attorney based on the threshold if there is a much larger case.

Mayor Johnson stated that she does not have a problem with said suggestion; \$35,000 [could be spent] until the next Council meeting; at the next Council meeting, the Council would vote to hire the outside counsel; inquired whether Councilmember Matarrese was making said suggestion.

Councilmember Matarrese stated to use the language in the Charter, it empowers the City Attorney to employ outside counsel.

Vice Mayor Gilmore inquired whether the City Attorney has \$35,000 to spend; for example, a lawsuit comes in, the City Attorney can spend \$35,000, notifies the Council by e-mail, etc. and at the next Council meeting, the Council gets a status report.

Mayor Johnson stated the hiring of the attorney that the City Attorney is suggesting would be brought to Council at its next meeting.

Vice Mayor Gilmore stated the City Attorney could not do so when the City is sued.

Mayor Johnson stated that the City could always change attorneys; that she assumes the Council would approve the attorney that the City Attorney suggests.

Vice Mayor Gilmore inquired whether said suggestion means that the attorney has not started work yet.

Mayor Johnson responded in the negative; stated the City Attorney can spend \$35,000 until the next Council meeting, when the hiring of outside counsel comes to the Council for approval.

Councilmember deHaan noted said suggestion differs from the City Attorney's proposal in the staff report; stated if the reporting segment is actively working, Council can monitor and get in the middle of things right off the bat if something goes astray; that he does not have enough questions to make drastic changes; the City Attorney can be given \$35,000, or the amount can be dropped down to \$20,000, to get started; Councilmembers will receive a report; the

threshold can be changed if two or three go astray.

Mayor Johnson stated said suggestion is greater micromanagement; Council would have to keep up to date on all litigation matters; the City Attorney is responsible for management once outside counsel is hired; Council cannot be responsible for monitoring litigation and bringing the matter to the Council if a Councilmember does not like something; the Charter states the Council is supposed to approve the hiring of outside counsel; Council needs to make the approval; then, the City Attorney would handle the matter.

Vice Mayor Gilmore requested clarification of how the process would work and an example be provided.

Mayor Johnson stated the main responsibility of the Council is the Charter requirement to consent to hiring [of outside counsel]; read Charter section; stated the issue is how the Council consents to the employment of special legal counsel.

Councilmember Matarrese stated it is how the Council empowers the City Attorney; the control is telling the City Attorney to go forward with hiring outside; the tier is the City Attorney can hire outside counsel for up to \$35,000; \$35,000 would take care of a minor matter or accommodate [Council meetings] every two weeks; once the [\$35,000] threshold is met, then the empowerment has to come back to the City Council for a vote.

The City Attorney stated that if the additional estimate is in excess [of \$35,000], the matter would always go to Council under the proposal; anything \$35,000 or less will go to Council, if the Council desires; anything estimated to be \$35,000 or more for the total litigation cost will automatically go to Council for approval.

Mayor Johnson inquired what would be done in the interim period for larger cases, to which the City Attorney responded the matter would be placed on the agenda as soon as possible.

Mayor Johnson inquired what if immediate action was needed.

The City Attorney responded the system is two tiered; stated the City Attorney would be authorized to spend up to \$35,000 without prior Council approval; for matters estimated to cost less than [\$35,000] the City Attorney hires outside counsel through the RFQ process.

Mayor Johnson stated the City Attorney's statement differs from

what the Council is saying; the City Attorney is stating that she can spend \$35,000 without Council approval; inquired whether the City Attorney would bring the matter to the City Council if the total estimate of the litigation expense is more than \$35,000.

The City Attorney responded in the affirmative; stated a large case would have to go to Council; the proposal has a number of additional restrictions for a smaller case, such as a sidewalk trip and fall; that she could only pick from a pre-qualified panel; if there is a slip and fall with a cost estimate of \$15,000, the City Attorney would review the matter and provide the Council notice, financial reports, and cost estimates; outside counsel would be selected from the panel.

Mayor Johnson stated there are small cases that should be handled in house; the City has five attorneys and should not farm out a \$15,000 trip and fall case; insurance adjusters handle said cases in the private sector; the City should not use outside counsel for little cases that should be handled in house; the City has five staff attorneys and spends a lot of money on outside counsel; the staffing level should be reviewed if every \$15,000 trip and fall is farmed out.

The City Attorney stated the proposal is to deal with one issue; there is a process in place for reviewing performance and management goals for the utilization of outside counsel going forward so that the Council establishes performance standards and expectations of the City Attorney's office; that she hears the Council; that the matter is a budget issue; the City Attorney's office will do more with less, try to do more litigation in house and work with the Council to establish the balance that the Council wants between five attorneys.

Mayor Johnson stated that she did not want to address the balance and how it would be established; further stated that she would prefer \$25,000 [as the threshold].

Councilmember deHaan inquired whether \$35,000 is for each matter.

Mayor Johnson responded in the affirmative; stated that [\$35,000] is what the City Attorney is proposing.

Councilmember deHaan inquired whether there is a period of time.

The City Attorney responded there are lots of time periods: notice within 24 hours, budget within 35 days, and quarterly financial reports.

Councilmember Matarrese stated for practical terms and Charter interpretation, the special legal counsel is per matter, which is reasonable; someone can get started on a case; legal matters go by case; the City Attorney would not be hiring one person to do multiple cases.

The City Attorney stated it is per matter or item, not per issue, subject, attorney, etc.

Mayor Johnson stated reports must not just include litigation; the report the City Attorney provided on outside counsel only included litigation and not other non-litigation issues that outside counsel handle for the City.

Councilmember deHaan inquired about the number of cases that hit the \$35,000 threshold per year, possibly ten to twelve.

The City Attorney responded in the affirmative; stated that she estimates there are about 20 active litigation cases currently.

Councilmember deHaan inquired whether the 20 cases would reach the \$35,000 threshold, to which the City Attorney responded less than that [20 cases].

Councilmember deHaan stated no more than eight to ten cases will hit the \$35,000 threshold over a year period of time; the vast majority are in the \$3,000 to \$4,000 bracket; inquired whether the numbers [that will reach \$35,000] are low.

The City Attorney responded that in trying to get some rational basis to come up with a number, \$35,000 is the exact median of the average cost of outside counsel, so half of the cases are below and half are above.

Councilmember deHaan disagreed.

Mayor Johnson inquired whether the Council received the report that shows the actual amount spent on different litigation cases.

The City Attorney responded the report was provided last week.

Councilmember deHaan stated the report provided can be fine-tuned and should work fine; that he does not see the number [of cases \$35,000 or over] being that great; the Council is allowing 70% of the City Attorney's activity below the threshold; noted that he used the data the City Attorney provided.

The City Attorney stated [\$35,000] was found to be the median

number; one reason for the reporting to Council is that changes can be made if desired.

Vice Mayor Gilmore stated that prior to today, the City Attorney's office had a budget that the Council approved by a line item; the City Attorney had utter discretion to spend the money any way she saw fit; the Council is trying to be more cognizant of its Charter responsibilities to provide oversight of spending said money; having gone from over \$500,000 of discretionary spending to the limit of \$35,000 is a more than a prudent place to begin; the amount is not set in stone; nothing prevents the Council from putting a policy in place, seeing how it works and making changes if needed; unless there are more specific recommendations, the policy is a good place to get started because it provides what the Council is trying to move towards.

Councilmember deHaan stated that he has no problem with it; the Council still has the oversight; future changes could be made.

Mayor Johnson inquired whether approval should be via a resolution.

The City Attorney stated Council should adopt via motion, so it is a formal Council action in terms of direction.

Mayor Johnson inquired whether any changes need to be made.

Councilmember Matarrese inquired whether there is a way to put the proposal in terms of the Charter responsibility, which is not City Council oversight of outside legal counsel expense, but is City Council rules of empowering the City Attorney to engage outside counsel.

The City Attorney responded the motion could be that this is the rule of empowering the City Attorney under [Charter Section] 8-5.

Mayor Johnson inquired whether this is a policy.

The City Attorney responded it is a rule; it is a direction.

Mayor Johnson inquired why the action could not be done by resolution.

The City Attorney responded a resolution could be brought back.

Mayor Johnson stated a resolution would be clearer; the issue of Alameda Power and Telecom (AP&T) also needs to be brought back to the Council; the Council needs to discuss approving counsel for AP&T and should consider delegating authority to the Public

Utilities Board.

The City Attorney stated said matter could be included in the resolution.

Mayor Johnson and Councilmember Matarrese stated Council should discuss the matter first.

Mayor Johnson suggested the resolution discussed tonight be brought back and a separate discussion be held on delegating AP&T's legal counsel.

Vice Mayor Gilmore inquired as to the difference between acting by resolution and by motion.

Mayor Johnson stated resolutions are easier for City staff to track.

The City Clerk noted resolutions are permanent records of the City Council.

Councilmember deHaan stated the proposal includes quarterly reporting requirements; that he would prefer monthly reporting.

Mayor Johnson stated that monthly reporting was acceptable to her, including the current budget on the status of the overall litigation contingency budget for not only Risk Management, but also AP&T.

Vice Mayor Gilmore stated the Council needs all of the numbers for all of the different entities that are part of legal budget the Council appropriated.

Councilmember Daysog stated the City Attorney's office has always delivered; the challenge is there is a desire to have more involvement in oversight.

Vice Mayor Gilmore concurred; stated that the action is not due to a deficiency in the City Attorney's office, rather it is the Council following what the Charter sets out as its role and bringing practices in line.

Mayor Johnson concurred; inquired whether the matter could return at the next Council meeting.

The City Attorney responded in the affirmative.

ORAL COMMUNICATIONS, NON-AGENDA

(05-____) Susan Potter, Alameda, requested guidance in procuring a permit for a mobile vendor to do business in the City; stated many companies do business without a permit.

Mayor Johnson inquired whether the request was for a mobile business at the dog park, to which Ms. Potter responded in the affirmative.

The Acting City Manager stated the proposal is to utilize a space at the dog park and other parks; the Recreation and Park Commission is working on a comprehensive policy and did not want to address the request as part of the policy; the section of the Municipal Code dealing with rolling stores could be amended; if the Council desires, staff could work with the Planning Board to draft an ordinance making amendments to address the issue.

Mayor Johnson inquired whether the Council has to direct that the matter be referred to the Planning Board; noted issues are unknown, for example merchants might oppose changes.

The Acting City Manager suggested the Planning Board consider the matter.

Mayor Johnson concurred with the suggestion.

Councilmember deHaan stated the issue of how long a business could remain on public property would need to be addressed.

The Acting City Manager stated rolling stores can only use the public right-of-way, not standing locations.

Councilmember deHaan noted Oakland allows rolling vendors on private property.

Vice Mayor Gilmore stated the Planning Board should review the matter.

Ms. Potter noted nothing is being done about the rolling vendors that are currently operating in the City without permits.

Mayor Johnson stated the City might need to start doing enforcement.

(05-____) Bill Smith, Alameda, discussed speeding vehicles.

(05-____) Jon Spangler, Alameda, stated non-food services, such as bicycle repair, should be considered when addressing mobile

businesses; noted market factors, such as demand, would not support the establishment of seventeen movie theaters in town.

(05-___) David Kirwin, Alameda, expressed concern about the megaplex theatre and parking structure project and funding; questioned whether there would be a \$1,000 parcel tax; stated parking lots adjacent to businesses are sufficient; there is a need for increased public awareness regarding the project.

Mayor Johnson responded there is not a parcel tax; requested staff to inform Mr. Kirwin where he should go for information.

The Acting City Manager stated Mr. Kirwin, and others, could meet with staff in the City Manager's Office or Development Services Department.

Mayor Johnson stated information could also be mailed or e-mailed, if preferred.

(05-___) Robb Ratto, Park Street Business Association, stated people opposed to the [theater and parking structure] project have been providing misinformation; stated PSBA would have opposed the project if a \$1,000 parcel tax were involved; noted the Downtown Vision plan from May, 2000 indicated that informal talks about a mutli-screen theater were underway.

COUNCIL COMMUNICATIONS

(05-___) Councilmember deHaan stated that he visited the Bayport site; the transit shelter on Tinker Avenue is less than adequate; the size of the sidewalks at Bayport are extremely narrow, do not match other sidewalks in Alameda, and are not pedestrian friendly; said matters should be considered when other developments are built.

ADJOURNMENT

There being no further business, Mayor Johnson adjourned the Regular Meeting at 11:17 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

The agenda for this meeting was posted in accordance with the Brown Act.

July 28, 2005

Honorable Mayor and Councilmembers:

This is to certify that the claims listed on the check register and shown below have been approved by the proper officials and, in my opinion, represent fair and just charges against the City in accordance with their respective amounts as indicated thereon.

<u>Check Numbers</u>	<u>Amount</u>
138651 - 139100	2,375,138.17
EFT 122	185,295.72
EFT 123	987,344.60
EFT 124	736,980.00
EFT 125	231,156.00
EFT 126	404,000.00

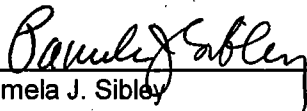
Void Checks:

138830	(831.87)
136628	(613.60)
139098	(4,747.05)

GRAND TOTAL

4,913,721.97

Respectfully submitted,


Pamela J. Sibley

Council Warrants 08/02/2005

BILLS #4-B
08/02/05

CITY OF ALAMEDA
Memorandum

To: Honorable Mayor and
Councilmembers

From: Debra Kurita
City Manager

Date: July 20, 2005

Re: Recommendation to Authorize the Mayor to Send a Letter to the United
States Postal Service Regarding the City's Interest to Relocate the
Distribution Function of the Alameda Post Office From Shoreline Drive to
Another Site in Alameda

BACKGROUND

South Shore Shopping Center has asked the City to send a letter to the US Postal Service to follow up on a February 3, 2005 meeting that the City of Alameda and Harsch Investment Properties had with the Postal Service regarding relocation of the distribution function of the Alameda Post Office to another site in Alameda.

DISCUSSION

Since as long ago as 2001, the City has been working in concert with South Shore to facilitate a decision by the U.S. Postal Service to relocate the Distribution Center to another location in Alameda and to establish a modern retail post office at South Shore (Attachment 1). On February 3, 2005, staff and representatives of Harsch met with Mr. David W. Eales, Manager, Realty Asset Management, U.S. Postal Service to discuss a proposal by Harsch to acquire the Alameda Post Office, build a U.S. Postal Service retail outlet in South Shore Center and relocate the distribution function to another location within the City of Alameda. As was discussed in this meeting, we have come to learn that the Alameda Post Office (local manager) has been very slow to respond to requests by Harsch to tour alternate locations. Based on what we heard at that meeting, the Alameda Postal Facility currently does not have enough parking, and the current building is too big for their needs. Furthermore, Harsch is making a \$45 million investment to upgrade the Center, and a postal distribution operation is not the most compatible activity with the vision for the beachfront. The City and Harsch Investment Properties are eager to explore a relocation of the Post Office distribution facility to another location in Alameda.

BUDGET CONSIDERATION/FINANCIAL IMPACT

There would be no impact on the General Fund from exploring alternative locations for the Post Office Distribution Facility. Additional information regarding alternative locations would be necessary to evaluate impact on the General Fund from such things as property tax revenue.

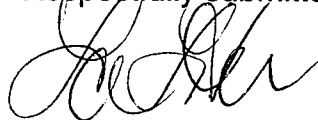
MUNICIPAL CODE/POLICY DOCUMENT CROSS REFERENCE

N/A

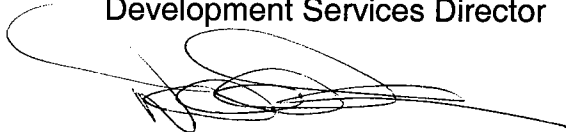
RECOMMENDATION

The City Manager recommends that Council the Mayor to send a letter (Attachment 2) to the United States Postal Service regarding the City's interest to relocate the distribution function of the Alameda Post Office from Shoreline Drive to another site in Alameda.

Respectfully submitted,



Leslie A. Little
Development Services Director



By: Dorene E. Soto
Manager, Business Development
Division



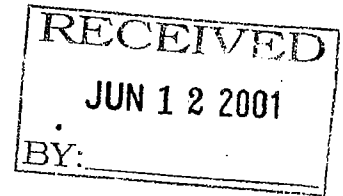
Bruce J.M. Knopf
Redevelopment Manager

DK/LAL/DES/BJMK:rv

Attachments

cc: Michael Corbett, Retail Portfolio Manager, Harsch Investment Properties

Dedicated to Excellence, Committed to Service



June 11, 2001

Mr. James Lazarus, State Director
Office of Senator Dianne Feinstein
One Post Street, Suite 2450
San Francisco, California 94104

Dear Mr. Lazarus,

We are considering some exciting changes in the City of Alameda, and State Senator Don Perata and I would like to ask your help to urge the United States Post Office to relocate the Alameda Main Post Office to a larger, more modern facility in our community.

The Alameda Main Post Office Distribution and Retail Facility is presently located within a functionally obsolete, leased building at 2201 Shoreline Drive. The post office is next door to the Island's largest community shopping center, South Shore Shopping Center, which is the single largest tax revenue generator for the City of Alameda. The property is owned by the Schnitzer family owners of Harsch Investments. The family has owned the property for 30 years and is currently in the process of investing \$60,000,000 to renovate and expand the Center to better suit the changing needs of the community.

We propose incorporating a new, larger retail post office inside the renovated Shopping Center, while at the same time, relocating the post office trucking facilities to Alameda Point. Not only will this provide the community with a modern, more accessible postal facility, but it will also help rejuvenate the former Naval Air Station and remove the unsightly distribution facility from the Town's crucial retail location. Additionally, the relocation of the post office from its existing beachfront location will allow South Shore Shopping Center to take advantage of the Island's greatest attribute: its views of the San Francisco Bay.

This is obviously a "win-win" scenario for the US Postal Service, its postal customers, the City of Alameda, the property owner, and the 80,000 residents who depend upon South Shore Shopping Center for jobs, tax revenues and convenient shopping to sustain the economic health and vitality of this community.

Office of the Mayor

2263 Santa Clara Avenue, Room 320
Alameda, California 94501

510 748-4545 Office - 510 748-4504 Fax - TDD 510 522-7538

Attachment 1

We are very pleased to be working with the full cooperation of State Senator Don Perata as we work to bring this vision to reality. We believe that Senator Feinstein will also share this vision, and I would like to ask for your personal assistance to help make this plan happen as soon as possible. Since the Post Office lease has a crucial real estate option that must be exercised by July 27th, Senator Don Perata and I are eager to arrange a meeting with you, Mr. Peter Sotos of Harsch Investments, and Jim Flint, Alameda City Manager, to discuss this matter at your most immediate opportunity.

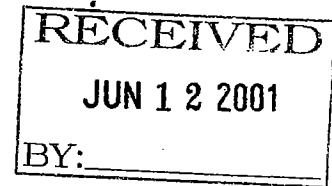
Thank you, Mr. Lazarus, for your personal attention to this exciting plan to improve postal service, expand tax revenues, and enhance the quality of civic life in the Town of Alameda. I will be personally calling you later today to follow up and answer any questions you might have.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Ralph J. Appezzato". The signature is fluid and cursive, with a large, stylized "A" at the end.

Ralph J. Appezzato
Mayor

cc: Senator Don Perata, District 9
Peter Sotos; Harsch Investments
Jim Flint, City Manager



June 11, 2001

Mr. Sam Chapman, Chief of Staff
Office of Senator Barbara Boxer
1700 Montgomery Street, Suite 240
San Francisco, California 94111

Dear Mr. Chapman:

We are considering some exciting changes in the City of Alameda, and State Senator Don Perata and I would like to ask your help to urge the United States Post Office to relocate the Alameda Main Post Office to a larger, more modern facility in our community.

The Alameda Main Post Office Distribution and Retail Facility is presently located within a functionally obsolete, leased building at 2201 Shoreline Drive. The post office is next door to the Island's largest community shopping center, South Shore Shopping Center, which is the single largest tax revenue generator for the City of Alameda. The property is owned by the Schnitzer family owners of Harsch Investments. The family has owned the property for 30 years and is currently in the process of investing \$60,000,000 to renovate and expand the Center to better suit the changing needs of the community.

We propose incorporating a new, larger retail post office inside the renovated Shopping Center, while at the same time, relocating the post office trucking facilities to Alameda Point. Not only will this provide the community with a modern, more accessible postal facility, but it will also help rejuvenate the former Naval Air Station and remove the unsightly distribution facility from the Town's crucial retail location. Additionally, the relocation of the post office from its existing beachfront location will allow South Shore Shopping Center to take advantage of the Island's greatest attribute: its views of the San Francisco Bay.

This is obviously a "win-win" scenario for the US Postal Service, its postal customers, the City of Alameda, the property owner, and the 80,000 residents who depend upon South Shore Shopping Center for jobs, tax revenues and convenient shopping to sustain the economic health and vitality of this community.

Office of the Mayor

2263 Santa Clara Avenue, Room 320
Alameda, California 94501

510 748-4545 Office - 510 748-4504 Fax - TDD 510 522-7538

We are very pleased to be working with the full cooperation of State Senator Don Perata as we work to bring this vision to reality. We believe that Senator Boxer will also share this vision, and I would like to ask for your personal assistance to help make this plan happen as soon as possible. Since the Post Office lease has a crucial real estate option that must be exercised by July 27th, Senator Don Perata and I are eager to arrange a meeting with you, Mr. Peter Sotos of Harsch Investments, and Jim Flint, Alameda City Manager, to discuss this matter at your most immediate opportunity.

Thank you, Mr. Chapman, for your personal attention to this exciting plan to improve postal service, expand tax revenues, and enhance the quality of civic life in the Town of Alameda. I will be personally calling you later today to follow up and answer any questions you might have.

Very truly yours,



Ralph J. Appezato
Mayor

cc: Senator Don Perata, District 9
Peter Sotos; Harsch Investments
Jim Flint, City Manager

JUN. 21. 2001 5:25PM

NO. 120

P. 2

DIANNE FEINSTEIN
CALIFORNIACOMMITTEE ON APPROPRIATIONS
COMMITTEE ON THE JUDICIARY
COMMITTEE ON RULES AND ADMINISTRATION**United States Senate**
WASHINGTON, DC 20510-0504

June 21, 2001

TO: Mr. C.

From: [Signature]

Mr. Jack Potter
Postmaster General
United States Postal Service
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004

Dear Postmaster General Potter:

I am writing you on behalf of Mayor Ralph Appezato and the City of Alameda. Mr. Appezato recently met with my staff to express the City of Alameda's strong interest in replacing the existing Alameda Post Office and Distribution Center with a smaller, modern retail Post Office and relocating the retail and distribution Post Office to Alameda Point.

The Postal Center is currently located adjacent to the South Shore Shopping Center (South Shore), which is prime commercial real estate and the largest generator of Alameda jobs and tax revenues. Mayor Appezato has been working with the South Shore developer to expand and optimize the retail space for the benefit of the City and its residents. The developer has agreed to cover all reasonable relocation costs involved in the proposed plan.

The proposed relocation plan requires the Alameda Post Office to assign the purchase option contained in its existing lease to the owner of the shopping center, Harsch Investments, by July 27th. With the deadline fast approaching, I am writing to request your timely attention to this matter.

Thank you for your consideration. If you have any questions or would like to discuss the city's proposal further, please contact Michele Senders in my San Francisco office at 415/393-0763.

With warmest personal regards.

Sincerely yours,

Dianne Feinstein
United States Senator

cc: Mr. Peter Sotos, VP of Harsch Investments (Via Fax)
Ms. Deborah Stein, President GCA Strategies (Via Fax)
Mayor Ralph Appezato, Alameda (Via Fax)
Mr. Jim Flint, Alameda City Manager (Via Fax)

February 23, 2004

The Honorable Dianne Feinstein
Senator from the State of California
One Post Street
Suite 2450
San Francisco, California 94104

Dear Senator Feinstein,

Your continued support with issues that arise in the City of Alameda is appreciated and recognized by Alameda residents and businesses alike. It is my understanding that in the past, you have written to the United States Postmaster General on behalf of my predecessor, the late Ralph Appezato, regarding the Postal Center currently located adjacent to South Shore Shopping Center.

South Shore Shopping Center ("South Shore") is considered prime commercial real estate and the shopping center alone is the largest generator of Alameda jobs and tax revenues in the City of Alameda. During the late Mayor's term, he worked closely with the owners of South Shore, Harsch Investment Properties (the Schnitzer family has owned the property for over 30 years), to redevelop, expand and optimize the shopping center for the benefit of the City, its businesses and its residents. Currently Harsch Investment Properties has initiated the redevelopment of South Shore and has already made a significant investment in terms of design and construction. It's clear to the City the owner understands that there is a need to be met and a shopping center to revitalize.

The Postal Center comes into play as Harsch Investment Properties begins their redevelopment process, because the location of the Postal Center, as you are aware, is directly across from the beachfront. This location would benefit South Shore as well as the residents of the Island and would enable us all to take advantage of the Island's greatest attribute: the San Francisco Bay view. However, there is one problem, the Postal Center has an existing long-term lease. Considering that the current Postal Center is a distribution facility with only minimal retail, its location by the bay does not make physical or economic sense. I am asking for your help once more to relocate the Postal Center to another area in Alameda that also needs revitalization: Alameda Point.

We propose incorporating a new, larger retail Post Office inside the renovated South Shore Shopping Center, and relocate the Post Office trucking facilities to Alameda Point. By doing so, South Shore would benefit from expanded views of the bay and redevelopment opportunities and at the same time Post Office users would not be affected, as they would continue to do their retail business at South Shore. As you can see all parties win in this situation.

Thank you, Senator Feinstein, for your time and consideration. I am very excited in what Harsch Investment Properties is planning to do with the City's community shopping center and hope that you would agree. On the same note, I look forward to your ongoing support to relocate the Postal Center and I am eager to discuss opportunities with you. Our exciting plan improves postal service, expands tax revenues and ultimately enhances the quality of civic life in the City of Alameda. I would like to set up a meeting with you, Michael Corbitt & Randy Kyte with Harsch Investment Properties and our City Manager, Jim Flint at your earliest opportunity.

Very truly yours,

Beverly Johnson, Mayor



September 16, 2004

Ms. Laureen Yamakido
Contracting Officer
United States Postal Service
Pacific Facilities Service Office
395 Oyster Point Blvd, Su 225
South San Francisco CA 94080-0300

RE: Alameda Main Post Office

Dear Ms. Yamakido:

Harsch Investment Properties owns the Alameda South Shore Center, a 540,000 SF shopping center, located immediately adjacent to the Alameda Main Post Office. Harsch would like to discuss how best to facilitate relocation of the Main Office. Specifically, we want to discuss how Harsch might work with the Postal Service to exercise the purchase option for the Main Office, relocate the carriers to a location more compatible with such uses, and, if feasible, relocate the retail aspects of the Main Office to a storefront in the redeveloped South Shore Center. The City of Alameda is also interested in working in partnership with both parties to facilitate the process to achieve such an outcome.

I write this letter to indicate our interest in initiating these discussions, at the earliest possible opportunity. Alameda South Shore is initiating a \$50 million redevelopment of the Center. We are excited about the new stores, architecture and overall upgrade of the Center and, by extension, the neighborhood. While we have managed over the years to coexist fairly well with the Postal Service adjacency, Postal employee encroachment into our parking areas continues to increase. This condition will become unacceptable following redevelopment of the Center.

We are aware of the requirement to make the Postal Service whole in any relocation of operations. We believe we can work cooperatively with USPS and the City to achieve that goal.

I appreciate your willingness to receive this letter and facilitate initiating discussions with key local and Headquarters personnel. To that end, I will call you in the next week to schedule a meeting with Postal Service staff and Harsch and City staff. I look forward to sitting down with Postal Service representatives to work towards a positive result.

Yours truly,

Michael Corbitt
Retail Portfolio Manager

cc: Jim Pate, Senior Vice President, Retail
Randy Kyte, Vice President/Director of Development
Paul Benoit, Assistant City Manager, City of Alameda



February 14, 2005

Mr. Raymond Davis
Postmaster
Alameda Post Office
UNITED STATES POSTAL SERVICE
2201 Shoreline Drive
Alameda, CA 94501

Dear Mr. Davis:

It was a pleasure speaking with you last week regarding the possible relocation of the Shoreline Postal facility.

As we discussed, there was a meeting held with Harsch Investment Properties and USPS on February 3, 2005 at the South Shore office. USPS had Asset Manager, David Eales at the meeting along with several other key representatives, but unfortunately you could not attend. During the meeting it was recommended that I follow up with you and tour some of the potential sites in Alameda for a possible relocation. I believe I mentioned to you that incorporating a USPS retail facility into our newly redeveloped retail center may make good economic sense for USPS and create a superb opportunity to increase your revenues. The distribution facility could be moved to one of the alternate sites that we have identified.

The Post Office could truly be in a "win-win" situation with not having to come out of pocket for a new facility, and even increase revenues in their retail operation.

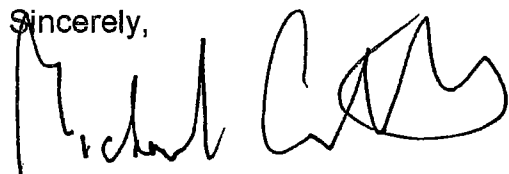
Based on what we discussed during our conversation, it sounded like you need to speak with the USPS representatives that were present during the February 3rd meeting to get up to speed. You mentioned that you would contact me once you had that information and we could potentially explore the relocation alternatives.

I look forward to working with you in the near future.

As a quick side note, as you know we have had an ongoing problem with USPS employees parking in our South Shore parking lot. This problem will only get worse as we continue to redevelop the Center and barricades go up. I would

kindly ask that you mention this issue to your employees and assist us with resolving it.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Corbitt". The signature is fluid and cursive, with the first name "Michael" written in a larger, more prominent script than the last name "Corbitt".

Michael Corbitt
Retail Portfolio Manager

cc: James Pate, Senior Vice President, Retail
Randy Kyte, Director of Development
David Eales, USPS Asset Manager

DRAFT

August 3, 2005

Mr. David W. Eales
Manager, Realty Asset Management
United States Postal Service
4301 Wilson Blvd., Suite 300
Arlington, VA 22203-1861

Dear Mr. Eales:

We want to follow up on a February 3, 2005 meeting that the City of Alameda and Harsch Investment Properties had with you with regards to acquiring the Alameda Post Office and relocating it to another site on Alameda Island.

The City got involved over four years ago trying to help move this process along and we learned just recently that the Alameda Post Office (local manager) has been very slow to respond to numerous requests by Harsch to tour alternate locations, as was discussed in your last meeting with the City and Harsch. We urge you to consider a permanent move, as the City Council and the community are very eager to have the postal distribution operation off of the beach front. That use is not compatible with our future vision for that area and based on what we heard in the last meeting, you currently don't have enough parking, and you also mentioned the current building was too big for your needs. Harsch has informed us that they would be receptive to incorporate the retail division into the South Shore shopping center. As you are aware, Harsch is undergoing a \$45M renovation and the post office (retail) could work very well in the shopping center.

We understand that the timing of your lease commitment is imminent, and in order for us to make this a reality, we need to act quickly.

Please contact me to further discuss.

Thank you,

Beverly Johnson
Mayor of the City of Alameda

cc: Debbie Potter, City of Alameda

CITY OF ALAMEDA

Memorandum

Date: July 25, 2005

To: Honorable Mayor and
Councilmembers

From: Debra Kurita
City Manager

Re: Recommendation to Adopt Specifications for Vehicle Tow Contract for
Abandoned Vehicles for The Police Department

BACKGROUND

The current towing service contract with A & B Towing will expire September 30, 2005. We propose to solicit formal bids for tow services for the period of October 1, 2005 through September 30, 2010, a five-year contract for the towing of abandoned vehicles.

DISCUSSION

The Specifications and Provisions for the tow services have been updated and will be filed with the City Clerk. They will be available for public view and will be available to potential bidders upon request from the Office of the City Clerk. The specifications are identified and numbered No. 9-01-2.

The schedule for the bid process is:

August 2, 2005	Council authorizes release of tow services specifications
August 3, 2005	Bid documents and specifications available for pickup by potential bidders
September 2, 2005	Deadline for submitting bids, 2:00 P.M.
September 20, 2005	Council reviews recommendation and awards tow contract

BUDGET CONSIDERATION/FINANCIAL IMPACT

The costs associated with the Police Department ordered tows for vehicles abandoned, dismantled, or inoperative on public streets are charged to the registered owner of the vehicle. If not paid, the vehicle has a lien placed against it and is sold by the tow company to recoup losses. Vehicles abated from private property under A.M.C. 8-22 are by law dismantled and not reconstructed or made operable. The tow company recoups the cost of removal from the owner of the parcel of land pursuant to A.M.C. 8-22.15.

MUNICIPAL CODE/POLICY DOCUMENT CROSS REFERENCE

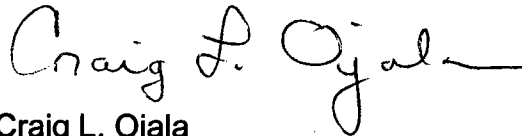
Not applicable.

RECOMMENDATION

The City Manager recommends that the City Council, by motion:

- 1, Approve the Specifications and Provisions, No. 9-01-2.
2. Authorize the City Clerk to advertise for formal bids for abandoned vehicle towing services.

Respectfully submitted,

A handwritten signature in black ink, reading "Craig L. Ojala" with a stylized flourish at the end.

Craig L. Ojala
Interim Chief of Police

DK/CLO/mcn

Attachment

CITY OF ALAMEDA
SPECIFICATIONS AND PROVISIONS

Proposals will be received until the hour of 2:00 PM on the 2nd day of September 2005. Proposals will be opened at 2:00 PM in the office of the City Clerk on September 2, 2005.

1. **FOR PROPOSALS TO THE CITY OF ALAMEDA:** For the towing and storage of abandoned, wrecked, dismantled and inoperative vehicles from public and private property as directed by authorized representatives of the Alameda Police Department for a five (5) year period commencing October 1, 2005 through and including September 30, 2010, strictly in accordance with the instructions, terms, conditions and specifications as herein described.
2. **PROPOSALS FORM:** All proposals must be made upon blank forms to be obtained, upon application, from the City Clerk at her office at City Hall, 2263 Santa Clara Avenue Room 380, Alameda, CA 94501. Proposals and all riders attached thereto or in support thereof, must be signed by the bidder, if the proposal is made by an individual, his/her name and business address must be shown. If made by a firm or partnership, the name and post office address of each member of the firm or partnership must be shown. If made by a corporation, the proposal must show the name of the state under the laws of which the corporation was chartered and the name, titles, and business addresses of the president, secretary and treasurer.
3. **PRESENTATION AND MARKING:** Proposals must be presented to the City Clerk at City Hall under sealed cover and must be plainly marked on the outside: "Proposal to Furnish Abandoned Vehicle Towing Services, to be opened on September 2, 2005 at 2:00 PM".
4. **BIDDER'S GUARANTY:** All proposals must be accompanied by a cashier's check or a certified check, drawn on a responsible bank, or by a Bid Bond furnished by a surety company authorized to transact business in the State of California and made payable to the City of Alameda for an amount of not less than Three Thousand Dollars (\$3,000.00), and no bid shall be considered unless such check is enclosed therewith.
5. **RETURN OF BIDDER'S GUARANTY:** Within ten (10) days after the opening of proposals, the City Clerk shall return the proposal guaranties accompanying such of the proposals that are not to be considered in making the award. All other proposal guaranties will be held until an award is made and a subsequent contract shall have been finally executed, after which they will be returned to the respective bidders, whose proposals they accompanied.

6. **REJECTION OF PROPOSALS CONTAINING ALTERATIONS. ERASURES OR IRREGULARITIES:** Proposals may be rejected if they show any alterations of form, additions not called for, conditional or alternative bids, incomplete bids, erasures, or irregularities of any kind. Any statement or qualification in proposal form or attached to, or included therewith, serving to qualify proposal, or containing conflicting statements, or otherwise rendering the proposal ambiguous or uncertain, will disqualify the bid. The right is reserved to reject any or all proposals.
7. **AWARD OF CONTRACT:** The award of the contract, if it is awarded, will be made within thirty-five (35) days after the opening of the proposals. Proposal may be withdrawn by the bidder if the award of contract is not made within thirty-five (35) days after opening of bids.
8. **DISCRETION IN AWARDING CONTRACT:** The City of Alameda reserves the right to accept or reject bids for any service or combination of services and to award a contract to separate bidders for any service, or combination of services.
9. **PENALTY FOR COLLUSION:** If at any time it shall be found that the person, firm or corporation to whom a contract has been awarded has, in presenting any bid, colluded with any other party or parties, then the contract so awarded shall be null and void and the bidder and his/her bondsmen shall be liable to the City for all loss or damage which the City may suffer thereby, and the City Council may advertise for a new contract for said services and materials. The foregoing shall not be construed as prohibiting the formation of a legal entity by persons, firms or corporations for the purpose of submitting a bid for the service herein specified.
10. **EXECUTION OF CONTRACT:** The contract, in form and contents satisfactory to the City, shall be executed by the successful bidder and returned to the City with the necessary faithful performance bond within ten (10) working days after the bidder has received notice that the contract has been awarded and is ready for signature. No proposal shall be considered binding upon the City until the execution of the contract.

The cashier's check or certified check enclosed with the proposal of the bidder to whom the contract shall be awarded shall be retained as agreed as liquidated damages to the City of Alameda in the event that such bidder shall fail to enter into a contract and furnish the bond as herein required, time being of the essence hereof.

11. **CONTRACT FAITHFUL PERFORMANCE BOND:** Unless herein otherwise specifically provided, the successful bidder shall furnish to the City, at the time the contract is delivered, an approved faithful performance bond executed by a Surety Company authorized to do business in the State of California, County of Alameda, City of Alameda and in form satisfactory to the City Attorney, in an amount of not less than Five Thousand Dollars (\$5,000.00), which bond shall guarantee faithful performance of said contract by the successful bidder.

12. **PAYMENT:** Payment will be made by the City within forty-five (45) days after aborted tow service Claims, as appropriate and their acceptance by the City or as otherwise noted herein, in the same manner that claims of like character are paid by the City, with warrants drawn on the Treasury of the City of Alameda.

13. **GENERAL INFORMATION:** All invitations to bid are offered subject to all terms, conditions and specifications herein contained.

All bids shall be evaluated by the City and the recommended award, if it be made, shall be made upon the basis of the lowest, responsive, responsible bid submitted. Included in the evaluation will be the following factors: a) Local facilities as required for performance including City Planning Department approval for compliance with zoning requirements; b) Number of and quality of all personnel employed; c) Adequacy and location of storage facilities, including evaluation of storage facilities located within the City of Alameda; d) Inspection of all equipment that the bidder proposes to use in the performance of this contract; e) The City's past experience, if any, with the bidders and the general reputation of the bidder.

The City will inspect bidder's facilities and equipment, prior to the recommendation of the award and reserves the right to inspect facilities and equipment at any time during the period of the contract. After the written proposals have been examined and during the evaluation process, the City may seek additional information from the bidders to clarify responses to aid in the final selection process.

14. **CONDITIONS INSTRUCTIONS AND ADDITIONAL REQUIREMENTS:** Proposals submitted by agents or by an attorney-in-fact of agent shall be accompanied by a true copy of his/her Power of Attorney, or other evidence of his/her authority to act on behalf of the principal. If the proposal is submitted by a corporation the certificate of corporation submitting the proposal must be executed. If the proposal is signed by the Secretary of the Corporation, the certificate must be executed by some other officer of the corporation, under the corporate seal. In lieu of the certificates of corporation submitting proposal, the information required may be attached to the proposal, copies to include the records of the corporation as will show the official character and authority of the officer signing, duly certified by the Secretary or Assistant Secretary under the corporate seal, to be true copies.

All proposals submitted shall be deemed to have been made with the full acknowledgement of all terms, conditions and requirements herein contained. Bidders may submit more than one proposal. Each proposal shall be submitted separately with separate guaranties.

It shall be the responsibility of each individual or entity submitting proposals to see that his/her proposal is delivered within the time and at the place prescribed in these provisions and specifications. Proposals received prior to the time of opening will be securely kept, unopened. No proposal or modification received after the time set for opening shall be considered.

Proposals may be withdrawn by written or telegraphic request, which must be received, from those submitting proposals prior to the time fixed for opening. Proposals may be modified in the same manner and in compliance with the same terms and conditions of this invitation. Negligence on the part of the individual or entity submitting proposals in preparations of the proposal confers no right for the withdrawal of the proposal after it has been opened.

15. **INTERPRETATION OF SPECIFICATIONS AND ADDENDA THERETO:** Should it appear that the description of services to be furnished, or any matter relative thereto, is not sufficiently detailed or explained in these specification, the bidder may apply to the City Police Department, Bureau of Services Captain for further explanation. Upon such application by any bidder, or in the event that it appears expedient to the City Police Department, Bureau of Services Captain to correct any ambiguity in these specifications, the City Police Department, Bureau of Services Captain may issue addenda thereto not later than seventy-two (72) hours prior to the time set for the opening of bids. Such addenda shall be mailed to those prospective bidders holding these specifications in the manner set forth in Section 16 hereof.

16. **NOTICE TO BIDDERS:** Any notice or addenda required to be mailed to the bidder or prospective bidders by the City of Alameda must be mailed by certified mail to said bidder or bidders at the business address of said bidder filed with the City of Alameda at the time that these specifications were delivered to said prospective bidder or in lieu thereof at his/her last known business address. Any such notice of addenda may be personally served. Evidence of such mailing shall be deemed the equivalent of personal service of such notice of addenda.

17. **GENERAL PROVISIONS:**

Scope of Work:

- A. Successful bidder shall provide twenty-four (24) hour tow services, on call as directed by the City of Alameda Police Department.
- B. Successful bidder shall provide outdoor secure storage for towed vehicles as explained later in this specification.
- C. Successful bidder and his/her operators shall cooperate with and assist Police Department representatives in removing hazards and vehicles as directed by the Police Officer at the scene. The successful bidder will assist in obtaining vehicle identification numbers, motor numbers or other identifying information as requested.

Quantity of Work:

The City makes no guarantee whatsoever, expressed or implied as to the number of tows, which the Police Department shall request during the contact period. With the exception of aborted tows and services performed on City owned vehicles, the City of Alameda shall not be liable for any charge or charges for towing or any other allied service unless expressly agreed to in written form by the Chief of Police and/or his representative. It being expressly understood and agreed that the successful bidder/bidders shall make all charges to the owner or owners of the vehicles to which the service is rendered.

Assignability:

Any assignment of this contract without the prior written consent of the City shall be voided. Subcontractors:

The successful bidder shall perform all functions of this contract award without the use of sub-contractors.

Inspections:

The City reserves the right to periodically inspect the successful bidder's storage facilities, have vehicles towed and stored by the successful bidder at no charge for the purpose of observing the conduct of the successful bidder's employees towards the public, and to evaluate procedures to guard against theft or damage to towed vehicles exercised by the successful bidder.

Charges for Services:

The rate structure will be established by competitive bid. The bidders must complete Exhibit A for all cost elements. Exhibit A will become the rate structure for the contract. Except as herein provided, the successful bidder shall not make any other charge unless specifically authorized by the vehicle owner or his/her authorized representative.

In addition, no charge will be made by the successful bidder if the vehicle to be towed is removed, prior to the arrival of the towing truck.

If, however, the tow truck has arrived, the owner of the vehicle to be towed will be subject to a service charge as described under the definition for an aborted tow in lieu of the towing charge when the vehicle is not towed to the storage area.

Aborted Tows:

- A. An aborted tow is defined as a police tow where a tow truck is dispatched, but no tow is made.
- B. In the event that a police tow is dispatched, but no tow is made (an Aborted Tow), the successful bidder will be allowed to collect a service charge in lieu of the towing charge from the vehicle owner or owners. If the successful bidder is unable to collect the aborted tow service charge from the vehicle owner or owners, the successful bidder may submit billing to the City of Alameda, together with assignment of collection for the charges. Such billing and assignment to the City must be made within a maximum period of One Hundred Eighty (180) days from the date of the aborted tow service, but in any case, the successful bidder is required to make every effort to collect from the vehicle owner and the billing and assignment to the City will follow only after a minimum of One Hundred Twenty (120) day collection period effort by the successful bidder computed from the date of the aborted tow service.

In addition, billing and assignment of collection to the City will be allowed only after it is shown that the tow truck responded to the original call within the minimum response time as shown in this specification. Where the initial response time is longer than the minimum response time, no billing or assignment to the City will be allowed.

Response Time:

Successful bidder shall dispatch equipment and personnel to arrive at the location prescribed by the Police Department no later than twenty-four (24) hours from receipt of order from the Police Department. Average response time will be measured over time. The successful bidder will be evaluated periodically and advised of the results.

Storage:

All vehicles, which are abandoned, wrecked, dismantled and inoperative, may be stored in an outdoor facility that must be fenced and protected from unauthorized entry. The fencing shall provide security and be of a type to provide adequate screening so as to not present an unsightly appearance. The City will consider bidders that have outdoor storage within a ten (10) mile driving radius from central Alameda (Central Avenue and Grand Street).

24-Hour Operation and Public Accessibility:

Successful bidder shall be required to have facilities available to the public for removal of towed vehicles on a seven (7) day, normal work hours (8am to 6pm) basis and the successful bidder shall post all the following information conspicuously at all office locations open to the public:

- A. Schedule of fees authorized by this contract.
- B. Notice that copies of the contract and specifications are available at the office of the tow contractor for public inspection by any interested party.
- C. Check cashing and credit card policy of the contractor.

Protection of Vehicle Contents:

- A. Successful bidder will, when assuming custody of a vehicle towed or stored by Police Order, inventory the contents of the vehicle including property in the unlocked storage compartments. This inventory will be made by the successful bidder's operator and shall be on forms approved by the Chief of Police. Notation will be made of any locked compartment. By signature on this inventory, the successful bidder acknowledges acceptance of legal responsibility through the action of his/her employees, or him/herself for the safe and proper tow and storage of the vehicle and for the security of the inventoried personal property.

Release of Towed Vehicles:

The successful bidder shall have one telephone number that the public or Police Department may call for information on vehicles towed pursuant to this contract. Successful bidder's personnel answering such telephones shall be courteous and provide complete information regarding the location of the vehicle and method of obtaining its release, including directions to the location to effect the release, documentation required, charges to be paid and terms of payment. Sufficient telephone lines, equipment and personnel shall be employed to provide public service without unreasonable delay.

The successful bidder will follow the guidelines for releasing stored vehicles as stated below:

- A. Claimants shall be required to provide evidence satisfactory to the tow firm representative that they are entitled to receive the vehicle. They must have a copy of the release from the Alameda Police Department.

Responsibility for release of the vehicle to a person without such evidence devolves fully on the successful bidder. When necessary, the Police Department will provide the successful bidder with reasonable assistance in verifying vehicle registration information, except those vehicles towed as abandoned during the normal course of performance under this contract.

- B. When the successful bidder's representative is satisfied that the requester is entitled to the vehicle, the fees provided in this contract award shall be collected and the requester promptly provided possession of the vehicle. If the vehicle is stored at a location other than the one where the fees are paid, transportation to the vehicle will be provided by the successful bidder without any charge and in a reasonable length of time. If transported in a tow truck, successful bidder shall take reasonable precautions to avoid any inconvenience and/or soiling of the customers garment.
- C. **PRIVATE PROPERTY ABATEMENT:** In the event the towed vehicle has been abated from private property under the sections 8-22.1 through 8-22.17 of the Alameda Municipal Code it shall not thereafter be reconstructed or made operable as provided for in section 8-22.13 of the Alameda Municipal Code and 22661 (f) of the California Vehicle Code.

Repair or Alteration of Vehicles:

Successful bidder shall not make any repairs or alterations to any vehicle without the express authorization of the registered or legal owner, and the owner's insurance carrier. Contractor may make only emergency alterations in order to tow the vehicle; however, no charge may be made to the owner of the vehicle.

Two-Way Radio Communications Equipment:

Each tow truck shall be equipped with equipment capable of communications between the successful bidder's dispatching office and the tow truck.

Error or Omissions:

- A. When any vehicle has been ordered towed by the Police Department and it appears that the tow was in error through a mistake of fact, the successful bidder shall release the vehicle to the owner at no cost to the owner. In the event of a clerical error or oversight on the part of the Police Department wherein a vehicle is stored for a period longer than it should have been, the successful bidder shall release the vehicle to the owner at no storage cost for such excess storage period.

- B. In the above cases, if the tow or excess storage charges resulted from an error of the Alameda Police through a mistake of fact or a clerical error, the successful bidder may charge the City at the rate of 50% of the towing and 50% of the storage charges per day of storage beyond the owner's responsibility. Provided, however, that if the circumstances were beyond the control of the Police Department, neither the City nor the owner shall be liable for such charges.

The Chief of Police and/or his designee shall make the determination as to errors or mistakes of fact and shall notify the successful bidder in writing.

Administration of Contract:

The administration of this contract, after award, is assigned to the Police Department.

Any appeals of decisions made by the Chief of Police may be made to the City Manager of the City of Alameda within ten (10) days of the determination by the Chief of Police. Any appeals of decisions made after this ten (10) day period shall be deemed null and void. Any decision by the City Manager for the City of Alameda shall be final and without further appeal.

18. **INSURANCE REQUIREMENTS:** On or before the commencement of the terms of this agreement, the successful bidder shall furnish City with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with the following paragraphs. Such certificates, which do not limit the successful bidders indemnification, shall also contain substantially the following statement: "Should any of the above insurance covered by this certification be cancelled or coverage reduced before the expiration date thereof, the insurer affording coverage shall provide thirty (30) days advance written notice to the City of Alameda by certified mail, 'Attention: Risk Manager'." It is agreed that the successful bidder shall maintain in force at all times during the performance of this Agreement all appropriate coverage of insurance required by this Agreement with an insurance company that is acceptable to the City and licensed to do insurance business in the State of California. Endorsements naming the City as additional insured shall be submitted with the insurance certificates.

A. **COVERAGE:**

Contractor shall maintain the following insurance coverage:

- 1) Workers' Compensation:

Statutory coverage as required by the State of California.

2) Liability:

Commercial general liability coverage in the following minimum limits:

Bodily Injury:	\$500,000 each occurrence \$1,000,000 aggregate all other
Property Damage:	\$100,000 each occurrence \$250,000 aggregate

If submitted, combined single limit policy with aggregate limits in the amounts of \$1, 000,000 will be considered equivalent to the required minimum limits shown above.

3) Automotive:

Comprehensive automobile liability coverage in the following minimum limits:

Bodily Injury:	\$500,000 each occurrence
Property Damage:	\$100,000 each occurrence
OR	
Combined Single Limit:	\$1,000,000 each occurrence

4) Garage keeper's Legal Liability: \$1,000,000 each occurrence

B. SUBROGATION WAIVER: The successful bidder agrees that in the event of loss due to any of the perils for which it has agreed to provide comprehensive general and automotive liability insurance that the successful bidder shall look solely to its insurance for recovery. The successful bidder hereby grants to City, on behalf of any insurer providing comprehensive general and automotive liability insurance to either the successful bidder or City with respect to the services of the successful bidder herein, a waiver of any right to subrogation which any such insurer of said successful bidder may acquire against City by virtue of the payment of any loss under such insurance.

C. FAILURE TO SECURE: If the successful bidder at any time during the term hereof should fail to secure or maintain the foregoing insurance, City shall be permitted to obtain such insurance in the successful bidder's name or as an agent of the successful bidder and shall be compensated by the successful bidder for the cost of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid.

- D. **ADDITIONAL INSURED:** City, its City Council, boards and commissions, officers and employees shall be named as an additional insured under all insurance coverage. The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured. An additional insured named herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy.
- E. **SUFFICIENCY OF INSURANCE:** The insurance limits required by the City are not represented as being sufficient to protect the successful bidder. The successful bidder is advised to consult the successful bidder's insurance broker to determine adequate coverage for the successful bidder.

All insurance shall be maintained at all times during the Agreement at the expense of the successful bidder.

19. **HOLD HARMLESS:** The successful bidder shall indemnify, defend and hold harmless City, its City Council, boards and commissions, officers and employees from and against any and all loss, damages, liability, claims, suits, cost and expenses whatsoever, including reasonable attorneys' fees, regardless of the merits or outcomes of any such claim or suit arising from or in any manner connected to the successful bidder's negligent performance of services or work conducted or performed pursuant to this Agreement.

The successful bidder shall indemnify, defend and hold harmless City, its City Council, boards and commissions, officers and employees from and against any and all loss, damages, liability, claims, suits, cost and expenses whatsoever, including reasonable attorney's fees, accruing or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, equipment or supplies arising from or in any manner connected to the successful bidder's negligent performance of services or work conducted or performed pursuant to this Agreement.

20. **BIDDER:** Shall be a corporation, partnership or individual of sound financial responsibility and must offer proof of the same to the City's satisfaction by submitting with any proposals either of the following:
- A. A current business financial statement for the entity submitting a proposal that has been prepared on a responsible bank's standard financial statement form and that has been accepted by that bank for the purpose of establishing a line of credit for entity submitting a proposal.

- B. A notarized statement attesting to the financial ability of the organization submitting a bid to fulfill the terms of the specifications. This may be submitted either on the basis of existing operations within the City of Alameda or a statement showing, under penalty of perjury the financial capability required to operate a business which would meet the specifications, and the ability to maintain such financing including available assets and credit references. This notarized statement must support a business statement for an existing corporation, partnership or individual that is now qualified to operate as a tow contractor. Such notarized statement must be complete and signed by an acceptable financial institution.
 - C. In either case, the bidder must submit a separate listing of any and all personal property and equipment either personally owned and/or presently leased for the purpose of use to execute this contract award. If such property is leased, proof of lease of said equipment must be provided together with the true financial statement as indicated in paragraph 20A or 20B.
- 21. FORCE MAJEURE: Neither party shall be liable for default or delay caused by any occurrence beyond its reasonable control, including but not limited to fires, strikes, accidents, or acts of God.
 - 22. CERTIFICATION: We hereby certify that the preceding comprises all the Specifications and Provisions No. MSP 9-01-2 adopted by the City Council of the City of Alameda on August 2, 2005 and are alike in reproduction to any and all that will be issued to interested parties responding to the City's invitation to bid for these services.

CITY OF ALAMEDA

MEMORANDUM

Date: July 26, 2005

To: Honorable Mayor and
Councilmembers

From: Debra Kurita
City Manager

Re: Recommendation to Amend the Consultant Contract with Signet Testing Labs, Inc.,
Modifying the Scope of Work and Increasing the Contract Limit, for the New Main
Library Project, No. P.W. 01-03-01, in the amount of \$54,000

BACKGROUND

On December 2, 2002, the City was awarded a State Library Grant for \$15,487,952 for construction of a new library. Alameda voters previously approved Measure O in the amount of \$10,600,000, which will provide matching funds for the project and improvements to the branch libraries. In addition, on December 21, 2004, the City Council authorized supplemental construction funding of \$1.74M to fully fund the contract with S. J. Amoroso.

Construction of the City's new main library commenced on March 14, 2005. On March 30, 2005, the City entered into an agreement with Signet Testing Labs, Inc. (Signet) to provide construction observation, material testing services and special inspections during the construction period of the new main library.

DISCUSSION

The scope of work for the original contract outlines the various types of services that Signet will provide. Signet's proposal included the scope of work for the structural steel fabrication, but it was not included in their current contract scope of work. At that time Signet had proposed sending one of their employees to observe the structural steel fabrication that would take place in Billings, Montana. In order to stay within budget, City staff proposed that it would be more cost effective to have Signet hire a subconsultant in Montana to perform the testing. The attached amendment describes the additional work, man-hours, and cost required for a subconsultant to perform the testing and observation of double shifts during the structural steel fabrication in Montana.

The current contract limit (including contingency) is \$38,233 of which \$27,221 is remaining. The proposed cost for the additional services as outlined in Exhibit A1 of the amendment is \$48,900. In addition, there is an approximate ten percent contingency of \$5,100 included in this amendment to cover any unforeseen conditions that may arise during structural steel fabrication,

resulting in a total not to exceed amount of \$54,000. This will result in a revised contract limit (including contingency) of \$92,233.

Staff requests authorization for the City Manager to amend the agreement with Signet Testing Labs, Inc.

Copy of Signet's original contract and the First Amendment to Agreement is on file with the City Clerk's office.

BUDGET CONSIDERATION/FINANCIAL ANALYSIS

This project is identified as CIP 02-37 with a total budget of \$17.4M (State Grant, Measure O Funds and Supplemental Funding) allocated for construction.

Funds to pay for this expected work is included in the "other professional fees" line item. There will be no impact to the project's contingency funding by this amendment

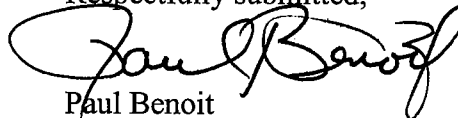
MUNICIPAL CODE/POLICY DOCUMENT CROSS REFERENCE

Not applicable.

RECOMMENDATION

The City Manager recommends that the City Council, by motion, amend the consultant contract with Signet Testing Labs, Inc., modifying the scope of work and increasing the contract limit, for the New Main Library Project, No. P.W. 01-03-01, in the amount of \$54,000.

Respectfully submitted,



Paul Benoit
Assistant City Manager



By: Robert G. Haun
Project Manager

PB/RH:ms
enclosure
cc: Library Director

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MEMORANDUM

Date: July 27, 2005

To: Mayor Beverly Johnson
Members of City Council

From: Carol A. Korade
City Attorney

Re: Resolution Empowering City Attorney To Employ Special Counsel

BACKGROUND AND DISCUSSION

On July 19, 2005, at City Council's request, the City Attorney presented a proposal for new procedures which would provide: 1) greater Council oversight for expenditures on outside counsel fees, 2) a competitive process for the hiring of outside counsel, and 3) monthly financial reports on the status of expenditures on outside counsel fees. A copy of the City Attorney Proposal is attached.


BUDGET CONSIDERATION/FISCAL IMPACT

Adoption of this Resolution will have no impact on the budget or General Fund. The outside counsel budget was appropriated by the Council on June 6, 2005.

RECOMMENDATION

It is recommended that the City Council adopt the Resolution Empowering the City Attorney to Employ Special Legal Counsel attached hereto.

Respectfully submitted:



Carol A. Korade
City Attorney

Attachments

MEMORANDUM

Date: July 14, 2005

To: Mayor Beverly Johnson
Members of City Council

From: Carol A. Korade
City Attorney

Re: Proposal for Council Oversight on
Expenditures from Outside Counsel Appropriations

The City Council has requested a proposal from the City Attorney which would provide for more Council oversight for expenditures on outside counsel. In addition, Council has requested a competitive process for the hiring of outside counsel. This memorandum addresses these concerns.

Background and Current Procedure

The City Attorney's Office provides total legal services to the City of Alameda including Alameda Power & Telecom, the Community Improvement Commission, the Housing Authority of the City of Alameda, and the Alameda Reuse and Redevelopment Authority. These legal services include both transactional and litigation, and are provided through a "hybrid" system of five in-house attorneys employed by the City, and contracted outside counsel for some specialized transactional work, such as tax and bond advice, and litigation services. By Charter, all in-house attorneys and contracted outside counsel attorneys report to the City Attorney, and the City Attorney reports to the Council.

The City Attorney's Office currently provides approximately 10,000 hours annually of in-house legal services to the various City entities, through five full-time in house attorneys. This work load is representative of that of a large private sector law-office. Because these legal services are provided to the City entities by salaried employees, as opposed to paying for the same legal services by the hour at market rates, currently approximately \$250/hour, the City realizes significant annual budgetary savings for in-house legal services.^a

The City Attorney's office is co-counsel for all litigation matters involving the City and all City entities, thus performing some litigation services in house, such as preparation of discovery responses, additional research, investigation and co-preparation of some motions and declarations, and court appearances. The City Attorney's Office does not employ sufficient in-house attorney staff to provide dedicated litigation services for the approximately 20 cases the City defends or initiates each year. Litigation is a full time commitment, with an average

^a Given the daily legal work load, night meetings, weekend work and travel on behalf of the City entities, it is estimated that each of the five attorneys in the City Attorney's Office work an average of 50 hours per week (approximately 10,000 hours annually). The value of these legal services, if charged by the hour at an average market rate of \$250/hour is \$2.5 million.

expenditure of 140 hours per case for routine litigation matters. This 140 hours/case does not include the hours spent in-house by the City Attorney's Office as co-counsel. Assuming 20 routine defense cases per year, this averages to a minimum of 2,800 hours of outside counsel attorney time. Providing all litigation services in house would require the hiring of at least two additional full-time attorneys who would be dedicated to litigation work, a law clerk or paralegal and at least one additional legal secretary, including the provision of office space, equipment and salary and benefits. The hiring of outside counsel on a case by case basis by the City Attorney is the most cost effective means of providing City legal defense, given the number of suits the City is served with each year.^b

The City Council annually appropriates an outside counsel budget for use by the City Attorney's Office for each fiscal year. The Council appropriated this funding on June 7, 2005 for fiscal year 05/06. This budget is used to fund litigation, both City-initiated and litigation defense of the City, through the hiring by the City Attorney of outside co-counsel.^c

Currently, all City-initiated litigation is first authorized by the City Council, in closed session, in accordance with the Brown Act (Govt. Code Section 54956.9(c)). Once authorized to initiate litigation, the City Attorney hires appropriate outside co-counsel and then prepares a confidential litigation summary and draft litigation budget within the first 30 days of the City-initiated lawsuit. This information is presented to the Council in a confidential written report.

When the City is served with a new lawsuit (where City will be defending, not initiating the matter), the City Council is notified by the City Attorney of the new suit within 24-48 hours of service. The confidential litigation notice also identifies the outside counsel to be employed by the City Attorney as its co-counsel in the defense. Council receives periodic updates of the progress of individual litigation and comprehensive litigation status reports bi-annually.

Proposed Changes to Litigation Procedures for City

Based on Council direction for additional oversight on expenditures from outside counsel appropriations, the attached proposal has been prepared. This proposal contains a \$35,000 spending limitation per matter, competitive bid process and other procedures. The median cost

^b At a market rate of \$250/hour, the cost of routine defense averages \$525,000 to \$700,000 (15 to 20 cases per year). The City Attorney's Office currently provides routine and complex litigation defense, as well as significant City-initiated litigation, through a "hybrid" of outside counsel and in-house co-counsel, on a budget of \$465,000. (e.g., ABL and 15 Group). By contrast, providing all litigation defense services in house would be estimated to cost in excess of \$500,000 in personnel costs and equipment/supplies; the cost of providing additional office space where none presently exists is an unknown additional expense.

^c The outside counsel budget has remained relatively constant for over 15 years, despite the rising cost of legal fees (\$425,000 in FY 1991/92, \$465,000 in FY 2005/06). The City Attorney's Office has been able to continue to provide high quality, cost effective legal defense to the City with this level budget by performing significant litigation services in-house as co-counsel. Additionally, amounts paid on all claims, settlements and judgments has remained low, (i.e., \$198,000 in FY 04/05).

Mayor Beverly Johnson and Members of the City Council

July 14, 2005

Page 3

of litigation in the City of Alameda is currently \$35,000. This means that 50% of cases will cost less than \$35,000 and 50% of cases will cost more. For expenditures over \$35,000, prior authorization from the legislative body would be required. A copy of the City Attorney Proposal for Council Budgetary Oversight is attached.

These limitations will provide the City Council, including the various entities in which they act, with additional budgetary oversight over outside counsel costs on a case by case basis, without impairing the ability to provide high quality, cost effective legal services and timely responsive pleadings and strategy for the City's defense. In litigation defense work, responsive pleadings must be filed within 20 days in federal court, and within 30 days in state court, so it is important to hire outside co-counsel as soon as possible. A spending limitation or threshold equivalent to the median cost of \$35,000 should be sufficient to avoid the "Catch-22" of being unable to timely hire outside co-counsel without first requesting Council authorization to spend any amount from the outside counsel budget—an amount which will be unknown until the matter is discussed with the hired co-counsel. A lower spending limit will require either 1) an immediate closed session every time a lawsuit is served, which will impair the City's ability to timely hire co-counsel and file responsive pleadings, or 2) public meetings to request additional spending authority, which will impair the City's ability to keep its legal advice regarding liability matters and litigation strategy confidential.

Note, that while legal advice and strategy is an appropriate matter to be discussed in closed session, budgetary matters and City expenditures are presented in open session. In order to avoid the need to discuss confidential City legal matters in public session, which would certainly disadvantage the City in both litigation and transactional matters, any spending limitation should be sufficient to enable the City to receive confidential legal services on a case by case basis. Fewer routine matters will cost more than \$35,000 within a fiscal year, thus the need to risk public disclosure of confidential legal advice and litigation strategy accompanying a request for additional spending authority will arise less often.

Finally, the City Attorney's Office will be issuing Requests for Qualifications in the Fall 2005 for outside legal counsel in the various areas of specialty and litigation that the City and its legal entities require, in order to have an available panel of outside counsel on an as needed basis. This process will continue to provide the most cost effective outside counsel services to the City by encouraging competition among qualified law firms. The City Attorney's Office will limit its use of outside counsel to this legal panel, and as a result the City Council will know which outside counsel are assigned to work on City matters. Any new attorney contracts can be subject to a \$35,000 limitation per matter, with any requests for expenditures to exceed this limit being first presented to the City Council for approval.



Carol A. Korade

Attachment

CITY ATTORNEY PROPOSAL
FOR COUNCIL OVERSIGHT OF OUTSIDE COUNSEL EXPENSES

Limitations on Spending Outside Counsel Budget

- * City Attorney is authorized by Council to spend up to \$35,000 per matter from appropriated budget without prior Council approval
 - \$35,000 authorization protects the City from revealing confidential legal advice regarding liability and/or litigation strategy in open session
 - Protects the City's ability to hire outside counsel quickly in order to meet Court deadlines:
 - 20 days to file Answer/responsive pleading in federal court, plus additional attorney meet and confer requirements
 - 30 days to file Answer/responsive pleading in state court
 - Protects the City from the "Catch-22" of not hiring outside counsel until an initial outside counsel budget is approved by Council
 - Outside counsel participates in the strategy of the City defense/legal project in order to prepare a budget
 - Outside counsel works with City staff/witnesses to prepare defense
 - Changing outside counsel after initial work has begun is not cost effective, and is problematic for witness preparation/investigation, particularly for police defense matters
 - Consistent with estimated legal fees for current open cases, \$35,000 is the median for litigation costs per case
- City-initiated litigation requires prior City Council authorization
 - City Attorney presents matter, including proposed legal budget, to City Council in closed session before hiring outside co-counsel
- * For matters estimated to cost less than \$35,000, City Attorney hires outside co-counsel from legal panel selected through RFQ process

*Proposed changes to current procedure

- * City Attorney meets with Council in closed session within 35 days and provides an analysis of the litigation, including litigation costs, as a confidential document if any of the following apply:
 - Estimated to exceed \$35,000 in defense costs
 - Involving policy questions
 - Having significant ramifications for the City
 - If requested by City Council

Limitations on Settlement Authority

- City Attorney's settlement authority is limited to \$15,000 for all matters; settlement proposals exceeding \$15,000 must be approved by City Council

Reporting Requirements

- The City Attorney keeps the Council apprised of the status of the litigation through periodic confidential reports
- *Quarterly financial reports provided to City Council on costs of outside counsel
- City Attorney provides confidential bi-annual litigation status reports to Council in January and July, with updated budget and analysis
 - Litigation status reports identify outside co-counsel for each case
 - Litigation status reports summarize the proceedings for each City initiated and defense case, including all "closed" cases for the current fiscal year and the preceding five (5) fiscal years
 - Litigation status reports include more detailed, separate confidential analysis provided for each litigation matter as attachments to the litigation status report
 - Litigation status report includes costs of litigation and any settlements/payments made by the City
- City Attorney meets periodically in closed session with Council to discuss any pending litigation matter

* Proposed change to current procedure

Limitations on Hiring of Outside Counsel

- *City Attorney will seek Requests for Qualifications ("RFQ") for outside counsel legal services for legal panel and City Attorney use of outside counsel will be limited to legal panel
 - Will advertise by RFQ in Fall 2005 to create the following four outside counsel panels:
 - 1) Bond Counsel
 - 2) Litigation Defense (Tort, Public Safety, Construction Contract)
 - 3) Real Property/Condemnation/Unlawful Detainer
 - 4) Miscellaneous Specialty (such as Tax, Labor, Federal/BRAC, Environmental/CEQA/land use, Airport)
 - City Attorney selects most qualified attorneys for each legal panel, based on qualifications, experience, specialization, references and competitive rates
- *All new contracts for the outside counsel legal panel will be subject to the \$35,000 spending limitation, without express authority to exceed the budget; City Attorney may not exceed this limitation on budgeted appropriations without seeking Council authorization in open session

* Proposed change to current procedure

CITY OF ALAMEDA RESOLUTION NO. _____

EMPOWERING CITY ATTORNEY
TO EMPLOY SPECIAL LEGAL COUNSEL

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ALAMEDA that the City Attorney is hereby empowered to employ special legal counsel pursuant to Charter Section 8-5 in accordance with the following:

Limitations on Spending Outside Counsel Budget

- City Attorney is authorized by Council to spend up to \$35,000 per matter from appropriated budget without prior Council approval.
- City-initiated litigation requires prior City Council authorization.
 - City Attorney presents matter, including proposed legal budget, to City Council in closed session before hiring outside co-counsel.
- For matters estimated to cost less than \$35,000, City Attorney hires outside co-counsel from legal panel selected through RFQ process.
- City Attorney meets with Council in closed session within 35 days and provides an analysis of the litigation, including litigation costs, as a confidential document if any of the following apply:
 - Estimated to exceed \$35,000 in defense costs.
 - Involving policy questions.
 - Having significant ramifications for the City.
 - If requested by City Council.

Limitations on Settlement Authority

- City Attorney's settlement authority is limited to \$15,000 for all matters; settlement proposals exceeding \$15,000 must be approved by City Council.

Reporting Requirements

- The City Attorney keeps the Council apprised of the status of the litigation through periodic confidential reports.
- Monthly financial reports provided to City Council on costs of outside counsel (includes transactional matters as well as litigation).
- City Attorney provides confidential bi-annual litigation status reports to Council in January and July, with updated budget and analysis.

- Litigation status reports identify outside co-counsel for each case.
- Litigation status reports summarize the proceedings for each City initiated and defense case, including all “closed” cases for the current fiscal year and the preceding five (5) fiscal years.
- Litigation status reports include more detailed, separate confidential analysis provided for each litigation matter as attachments to the litigation status report.
- Litigation status report includes costs of litigation and any settlements/payments made by the City.
- City Attorney meets periodically in closed session with Council to discuss any pending litigation matter.

Limitations on Hiring of Outside Counsel

- City Attorney will seek Requests for Qualifications (RFQ) for outside legal services for legal panel and City Attorney use of outside counsel will be limited to legal panel.
 - Will advertise by RFQ in Fall 2005 to create the following four outside counsel panels:
 - 1) Bond Counsel
 - 2) Litigation Defense (Tort, Public Safety, Construction Contract)
 - 3) Real Property/Condemnation/Unlawful Detainer
 - 4) Miscellaneous Specialty (such as Tax, Labor, Federal/BRAC, Environmental/CEQA/Municipal, Land Use, Airport)
 - City Attorney selects most qualified attorneys for each legal panel, based on qualifications, experience, specialization, references and competitive rates.
- All new contracts for the outside counsel legal panel will be subject to the \$35,000 spending limitation, without express authority to exceed the budget; City Attorney may not exceed this limitation on budgeted appropriations without seeking Council authorization in open session.

Public Utilities Board

- The City Council hereby consents to the Public Utilities Board empowering the City Attorney, at his/her request, to employ special legal counsel.

* * * * *

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Council of the City of Alameda in regular meeting assembled on the day of _____, 2005, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of the said City this ____ day of _____, 2005.

Lara Weisiger, City Clerk
City of Alameda

CITY OF ALAMEDA ORDINANCE NO. _____
New Series

AMENDING THE ALAMEDA MUNICIPAL CODE BY
AMENDING VARIOUS SECTIONS OF CHAPTER XXX
(DEVELOPMENT REGULATIONS)

BE IT ORDAINED by the Council of the City of Alameda that:

Section 1. Section 30-2 (Definitions) of Article I (Zoning Districts and Regulations) of Chapter XXX (Development Regulations) are hereby amended by adding or revising the following definitions:

Building Height (maximum), shall be established by an assumed plane, as measured perpendicularly from the existing grade, and as prescribed by the subject zoning district. Except as provided for under section 30-5.8 (Height Exceptions), no portion of the structure, including any part of the roof, may project above the assumed plane.

Grade, Existing (Adjacent Ground Elevation) is the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line or, when the property line is more than 5 feet from the building, between the building and a line 5 feet from the building.

Story is that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than 6 feet above grade, as defined in the Alameda Building Code, for more than 50 percent of the total perimeter or is more than 12 feet above grade, as defined in the Alameda Building Code, at any point, such usable or unused under floor space shall be considered as a story.

Section 2. Section 30-2 (Definitions) of Article I (Zoning Districts and Regulations) of Chapter XXX (Development Regulations) are hereby amended by repealing the following definition:

Basement shall mean a space partly or wholly underground and having more than one-half (½) its height measured from its floor to its finished ceiling below the average adjoining grade. If the finished floor level directly above a basement is more than six (6') feet above grade at any point, such basement shall be considered a story.

Section 3. The Alameda Municipal Code is hereby amended by amending Subsection 30-4.1, (R-1, One-Family Residence District) of Section 30-4 (District Uses

Approved as to Form

CITY ATTORNEY

and Regulations) of Article I (Zoning Districts and Regulations) of Chapter XXX (Development Regulations) to read as follows:

30-4.1(d) Minimum Height, Bulk and Space Requirements.

4. Building Height Limit: not to exceed thirty (30') feet.
6. Side Yard: Side yards shall total not less than twenty (20%) percent of the lot width (as defined in Section 30-2--Definitions), and no side yard may either be less than five (5') feet or be required to be more than ten (10') feet. The side yard on the street side of a corner lot shall not be less than ten (10') feet.

Section 4. The Alameda Municipal Code is hereby amended by amending Subsection 30-4.2 (R-2, Two-Family Residence District) of Section 30-4 (District Uses and Regulations) of Article I (Zoning Districts and Regulations) of Chapter XXX (Development Regulations) to read as follows:

30-4.2(d) Minimum Height, Bulk and Space Requirements.

4. Building Height Limit: not to exceed thirty (30') feet.
6. Side Yard: Side yards shall total not less than twenty (20%) percent of the lot width as measured at the front yard (as defined in Section 30-2--Definitions), and no side yard may either be less than five (5') feet or be required to be more than ten (10') feet. The side yard on the street side of a corner lot shall not be less than ten (10') feet.

Section 5. The Alameda Municipal Code is hereby amended by amending Subsection 30-4.3 (R-3 Garden Residential District) of Section 30-4 (District Uses and Regulations) of Article I (Zoning Districts and Regulations) of Chapter XXX (Development Regulations) to read as follows:

30-4.3(d) Minimum Height, Bulk and Space Requirements.

4. Building Height Limit: not to exceed thirty five (35') feet.
6. Side Yard: Side yards shall total not less than twenty (20%) percent of the lot width as measured at the front yard (as defined in Section 30-2 --Definitions), and no side yard may either be less than five (5') feet or be required to be more than ten (10') feet. The side yard on the street side of a corner lot shall not be less than ten (10') feet.

Section 6. The Alameda Municipal Code is hereby amended by amending Subsection 30-4.4 (R-4, Neighborhood Residential District) of Section 30-4 (District Uses and Regulations) of Article I (Zoning Districts and Regulations) of Chapter XXX (Development Regulations) to read as follows:

30-4.4(d) Minimum Height, Bulk and Space Requirements.

4. Building Height Limit: not to exceed thirty five (35') feet.
6. Side Yard: Side yards shall total not less than twenty (20%) percent of the lot width as measured at the front yard (as defined in Section 30-2--Definitions), and no side yard may either be less than five (5') feet or be required to be more than ten (10') feet. The side yard on the street side of a corner lot shall not be less than ten (10') feet.

Section 7. The Alameda Municipal Code is hereby amended by amending Subsection 30-5, (R-5, General Residential District) of Section 30-4 (District Uses and Regulations) of Article I (Zoning Districts and Regulations) of Chapter XXX (Development Regulations) to read as follows:

30-4.5(d) Minimum Height, Bulk and Space Requirements.

4. Building Height Limit: not to exceed forty (40) feet.
6. Side Yard: Side yards shall total not less than twenty (20%) percent of the lot width as measured at the front yard (as defined in Section 30-2--Definitions), and no side yard may either be less than five (5') feet or be required to be more than ten (10') feet. The side yard on the street side of a corner lot shall not be less than ten (10') feet.

Section 8. The Alameda Municipal Code is hereby amended by amending Subsection 30-4.6 (R-6, Hotel Residential District) of Section 30-4 (District Uses and Regulations) of Article I (Zoning Districts and Regulations) of Chapter XXX (Development Regulations) to read as follows:

30-4.6(d) Minimum Height, Bulk and Space Requirements.

4. Building Height Limit: not to exceed fifty (50) feet.
6. Side Yard: Side yards shall total not less than twenty (20%) percent of the lot width as measured at the front yard (as defined in Section 30-2--Definitions), and no side yard may either be less than five (5') feet or be required to be more than ten (10') feet. The side yard on the street side of a corner lot shall not be less than ten (10') feet.

Section 9. The Alameda Municipal Code is hereby amended by amending Subsection 30-4.7 (AP, Administrative-Professional District) of Section 30-4 (District Uses and Regulations) of Article I (Zoning Districts and Regulations) of Chapter XXX (Development Regulations) to read as follows:

30-4.7(d) Minimum Height, Bulk and Space Requirements.

6. Side Yard: Side yards shall total not less than twenty (20%) percent of the lot width as measured at the front yard (as defined in Section 30-2 --Definitions), and no side yard may either be less than seven (7') feet or be

required to be more than twenty (20') feet. The side yard on the street side of a corner lot shall not be less than ten (10') feet.

Section 10. The Alameda Municipal Code is hereby amended by amending Subsection 30-4.8 (C-1, Neighborhood Business District) of Section 30-4 (District Uses and Regulations) of Article I (Zoning Districts and Regulations) of Chapter XXX (Development Regulations) to read as follows:

30-4.8(d) Minimum Height, Bulk and Space Requirements.

4. Side Yard: No setback shall be required, except where the side yard of a lot abuts an R District, then a minimum side yard of five (5') feet shall be maintained.

Section 11. The Alameda Municipal Code is hereby amended by amending Subsection 30-4.9 (C-2, Central Business District) of Section 30-4 (District Uses and Regulations) of Article I (Zoning Districts and Regulations) of Chapter XXX (Development Regulations) to read as follows:

30-4.8(d) Minimum Height, Bulk and Space Requirements.

5. Side Yard: No setback shall be required, however if a setback is provided, then it shall be a minimum of twelve (12') feet. As to lots with side yards that abuts an R District, a minimum side yard of five (5') feet shall be maintained.

Section 12. The Alameda Municipal Code is hereby amended by amending Subsection 30-5.7 (k) of Subsection 30-5.7 (Projections from buildings and Roof Planes, Permitted Encroachments, and Treatments of Minimum Required Yards) of Article I (Zoning Districts and Regulations) of Chapter XXX (Development Regulations) to read as follows:

- k. Exceptions to allow additions with less than the required minimum side yards. If a main building has less than the required side yard setback, additions may be approved with existing setbacks, or none, if none exist, if the following finding can be made: No adverse effects such as shading or view blockage will occur on adjoining properties.
 1. New cantilevered projections above the first story which are to have the same or less horizontal area as an existing first story projection, may be approved with the existing projection's setbacks.
 2. If necessary to make the finding in the section above, or to address Design Review or building code concerns, the Director may require a setback greater than those existing, but still allow a setback(s) that is less than the

minimum required side yard or street side yards of corner lots prescribed by the subject zoning district.

Section 13. The Alameda Municipal Code is hereby amended by amending Subsection 30-5.7 (l) of Subsection 30-5.7 (Projections from buildings and Roof Planes, Permitted Encroachments, and Treatments of Minimum Required Yards) of Article I (Zoning Districts and Regulations) of Chapter XXX (Development Regulations) to read as follows:

1. In exception to the setback requirements of this chapter for stories above the ground floor, an addition at the second floor level may be approved with exterior walls in the same plane as the walls of the existing building below if the following finding can be made: No adverse effects such as shading or view blockage will occur on adjoining properties.
1. If necessary to make the finding in the section above, or to address Design Review or building code concerns, the Director may require a setback greater than those existing, but still allow a setback(s) that is less than the minimum required side yard or street side yard of corner lots prescribed by the subject zoning district.

Section 14. The Alameda Municipal Code is hereby amended by amending Subsection 30-7.8 (Location of Parking Spaces and Prohibited Parking Areas) of Section 30-7 (Off-Street Parking and Loading Space Regulations) of Article I (Zoning Districts and Regulations) of Chapter XXX (Development Regulations) to read as follows:

30-7.8 Location of Parking Spaces and Prohibited Parking Areas

All parking spaces, whether required or in excess of this section, shall be provided on the same parcel as the use which is generating the parking demand. A use permit shall be required if parking spaces, whether required or in excess of this section, are proposed on a separate parcel than the use which is generating the parking demand. Parking spaces provided in compliance with this section are subject to the following additional requirements:

Residential Zones, and Residential Uses in Non-residential Zones:

1. No parking space may be located in any minimum required front yard, or in any minimum required side yard on the street side of any corner lot. Parking spaces may be located within minimum required side and rear yards, subject to the requirements of subsection 30-7.10.a: Perimeter Landscaping Required.
2. The parking of vehicles within any minimum required front yard, or in any minimum required side yard on the street side of any corner lot, is prohibited.

- (a) Exception to parking prohibition: Driveways used to provide access to required parking spaces may be used to provide ancillary parking provided the parking is not located in the required front yard or the street side yard of any corner lot. Driveways used for such ancillary parking may not exceed the maximum permitted widths as prescribed by subsection 30-7.9.f.1.(a). Such ancillary parking shall not be considered toward meeting the requirements of Subsection 30-7.6; Schedule of Required Minimum Off-Street Parking Spaces.
- 3. See subsection 30-5.7.f for additional provisions related to the location of garages.
- b. *Non-residential Uses in Non-residential Zones.* Parking spaces may be located between the main building(s) and the street frontage(s), subject to the requirements of Subsection 30-7.10.a: Perimeter Landscaping Required.
- c. *Non-residential Parking in Residential Zones.* Parking for uses not allowed in a residential zone shall not be located in that residential zone.

Section 15. The Alameda Municipal Code is hereby amended by amending Subsection 30-37.1 (Definitions) of section 30-37 (Design Review Regulations) of Section 30-4 (District Uses and Regulations) Article II (Structural Design Review Regulations) of Chapter XXX (Development Regulations) to read as follows:

- e. *Replacement-in-kind* shall mean the replacement of any structure or architectural element which is identical to the original structure in terms of location, size, and shape; and is made of materials that outwardly have the same dimensions, proportions, details and textures of the original and that outwardly appear unchanged from the original.

Section 16. The Alameda Municipal Code is hereby amended by repealing Subsection 30-20.3 (Changes Permitted) of Section 30-20 (Nonconforming Buildings and Uses) of Article I (Zoning Districts and Regulations) of Chapter XXX (Development Regulations) in its entirety.

Section 17. The Alameda Municipal Code is hereby amended by adding a new Subsection 30-20.3 (Nonconforming Buildings with Conforming Residential Uses) to Section 30-20 (Nonconforming Buildings and Uses) of Article I (Zoning Districts and Regulations) of Chapter XXX (Development Regulations) to read as follows:

30-20.3 Nonconforming Buildings with Conforming Residential Uses.
Nonconforming buildings, with conforming residential uses in Residential zoning districts, may be reconstructed, with an equal or lesser nonconformity to the Development Standards of this Chapter, subject to the approval process for improvements, as outlined in Section 30-37; Design Review Requirements. Such reconstruction may occur to repair damage as defined by sub-section 30.20.4 below, or, as part of any duly permitted project to repair, remodel or replace an existing non-conforming structure. For reconstruction of

nonconforming buildings with residential uses in Residential zoning districts, the value limitations prescribed by subsection 30-20.4 do not apply.

Section 18. The Alameda Municipal Code is hereby amended by repealing Subsection 30-20.4 (Restoration of Damaged Buildings) of Section 30-20 (Nonconforming Buildings and Uses) of Article I (Zoning Districts and Regulations) of Chapter XXX (Development Regulations) in its entirety

Section 19. The Alameda Municipal Code is hereby amended by adding a new Subsection 30-20.3 (Nonconforming Buildings with Conforming Residential Uses) to Section 30-20 (Nonconforming Buildings and Uses) of Article I (Zoning Districts and Regulations) of Chapter XXX (Development Regulations) to read as follows:

30-20.4 Changes to, and Restoration of Nonconforming Buildings and Uses. Notwithstanding the provisions in 30.20.3 to allow reconstruction of nonconforming buildings with residential uses in Residential zoning districts, the following regulations apply to nonconforming uses and buildings:

- a. Changes Permitted No nonconforming building or use shall be enlarged, extended, reconstructed or structurally altered, unless it is changed to conform to the regulations specified by this section, provided that routine maintenance and repairs required by applicable health and safety codes shall be permitted in an aggregate amount during a five (5) year period of not to exceed one hundred (100%) percent of the total appraised valuation as verified by a certified appraiser selected by the City, and conducted at the property owner's expense.
- b. Restoration of Damaged Buildings. If at any time any nonconforming use or building shall be destroyed by fire, explosion, or act of God to the extent of more than seventy (70%) percent of the value thereof, then, and without further action by the City Council, the building and the land on which said building was located or maintained shall from and after the date of such destruction be subject to all the regulations of the district in which such land and/or building are located. For the purposes of this section, the value of any building shall be the estimated cost of the replacement of the building in kind, as determined by the Building Official. Where any nonconforming building shall have been destroyed less than seventy (70%) percent, as specified above, a building permit for its restoration shall be secured not later than one (1) year from the date of such destruction and the restoration shall be completed within one (1) year from the date of issuance of the building permit.

Section 20. Effective Date. This Ordinance shall be in full force and effect from and after the expiration of thirty (30) days from the date of its final passage.

Presiding Officer of the Council

Attest:

Lara Weisiger, City Clerk
City of Alameda

* * * * *

I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by Council of the City of Alameda in regular meeting assembled on the _____ day of _____, 2005, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this _____ day of _____, 2005.

Lara Weisiger, City Clerk
City of Alameda

CITY OF ALAMEDA ORDINANCE NO. _____
New Series

AMENDING ALAMEDA MUNICIPAL CODE BY DECLARING
BOUTIQUE THEATERS TO BE USES PERMITTED BY USE
PERMIT WITHIN THE C-1 NEIGHBORHOOD COMMERCIAL
ZONING DISTRICT OF CHAPTER XXX (DEVELOPMENT
REGULATIONS)

BE IT ORDAINED by the City Council of the City of Alameda that:

Section 1. The Alameda Municipal Code is hereby amended by adding the following
new definition to Section 30-2 (Definitions):

*Boutique Theater: A theater with audiences of 49 persons or less for live
performances or for the screening of motion pictures where there is only one
screen in the theater.*

Section 2. The Alameda Municipal Code is hereby amended by adding to Section 30-
4.8(c) (*Uses Requiring Use Permits*) Subsection 9 as follows:

9. Boutique Theater

Section 3. Severability Clause. It is the declared intent of the City Council of
Alameda that if any section, subsection, sentence, clause, phrase, or provision of this ordinance is
held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or
unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining
provisions of this ordinance.

Section 4. This Ordinance shall be in full force and effect from and after the
expiration of thirty (30) days from the date of its final passage.

Presiding Officer of the Council

Attest:

Lara Weisiger, City Clerk
City of Alameda

* * * * *

**Final Passage of Ordinance # 5-B
8-2-05**

Approved as to Form

CITY ATTORNEY

I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by Council of the City of Alameda in regular meeting assembled on the _____ day of _____, 2005, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this _____ day of _____, 2005.

Lara Weisiger, City Clerk
City of Alameda

The Public Hearing is to be continued to August 16, 2005.

**Re: Public Hearing #5-C
8-2-05**

The Public Hearing is to be continued to August 16, 2005.

**Re: Public Hearing #5-D
8-2-05**

Headquarters
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SACRAMENTO, CA 95814
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FX: (916) 658-8240

Southern California Office
602 East Huntington Dr., Ste. C
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WWW.CACITIES.ORG

July 6, 2005

To: The Honorable Mayor and City Council

From: Pat Eklund, League President, Council Member, Novato

Re: Designation of Voting Delegate for 2005 League Annual Conference

The League's 2005 Annual Conference is scheduled for Thursday, October 6 through Saturday, October 8 in San Francisco. One very important aspect of the Annual Conference is the Annual Business Meeting where the membership takes action on conference resolutions. Annual conference resolutions guide cities and the League in our efforts to improve the quality, responsiveness and vitality of local government in California. **It is important that all cities be represented at the Annual Business Meeting on Saturday, October 8th, at 10:30 a.m. at the San Francisco Moscone Convention Center West.**

To expedite the conduct of business at this important policy-making meeting, each city council should designate a voting representative and an alternate who will be registered at the conference and present at the Annual Business Meeting. A voting card will be given to the city official that is designated and indicated on the enclosed "Voting Delegate Form."

Please complete and return the enclosed form to the League's Sacramento office at the earliest possible time (**not later than Monday, September 6, 2005**), so that proper records may be established for the conference.

The city's designated voting delegate may pick up the city's voting card at the Voting Card desk located in the League registration area. The Desk will be open on October 6, 7, and 8. Voting cards should be picked up before the Annual Business Meeting on October 8th.

The voting procedures to be followed at this conference are printed on the reverse side of this memo.

Your help in returning the attached "Voting Delegate Form" as soon as possible is appreciated. If you have any questions, please call Lorraine Okabe at (916) 658-8236.

Council Communication #7-A
8-2-05



Annual Conference Voting Procedures

1. Each member city has a right to cast one vote on matters pertaining to League policy.
2. To cast the city's vote, a city official must have in his or her possession the city's voting card and be registered with the Credentials Committee.
3. Prior to the Annual Conference, each city should designate a voting delegate and an alternate and return the Voting Delegate Form to the League Credentials Committee.
4. The voting delegate, or alternate, may pick up the city's voting card at the voting card desk in the conference registration area.
5. Free exchange of the voting card between the voting delegate and alternate is permitted.
6. If neither the voting delegate nor alternate is able to attend the Business Meeting, the voting delegate or alternate may pass the voting card to another official from the same city by appearing **in person** before a representative of the Credentials Committee to make the exchange. Prior to the Business Meeting, exchanges may be made at the "Voting Card" table in the League Registration Area. At the Business Meeting, exchanges may be made at the "Voting Card" table in the front of the meeting room. Exchanges may not be made while a roll call vote is in progress because the Credentials Committee will be conducting the roll call.
7. Qualification of an initiative resolution is judged in part by the validity of signatures. Only the signatures of city officials who are authorized to use the city's voting card, and who have left a sample of their signature on file for the Credentials Committee, will be approved.
8. In case of dispute, the Credentials Committee will determine the right of a city official to vote at the Business Meeting.



**2005 ANNUAL CONFERENCE
VOTING DELEGATE FORM**

CITY: _____

1. VOTING DELEGATE:

(Name)

(Title)

2. VOTING ALTERNATE:

(Name)

(Title)

ATTEST: _____
(Name)

(Title)

PLEASE COMPLETE AND RETURN TO:

League of California Cities
Attn: **Lorraine Okabe**
1400 K Street
Sacramento, CA 95814



Fax: (916) 658-8240

Deadline: Monday, September 6, 2005

.....
(Original Signature of Member)

109TH CONGRESS
1ST SESSION

H. R. _____

To amend the Indian Gaming Regulatory Act to limit casino expansion.

IN THE HOUSE OF REPRESENTATIVES

Mr. DENT introduced the following bill; which was referred to the Committee
on _____

A BILL

To amend the Indian Gaming Regulatory Act to limit casino
expansion.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. LIMITATION ON INDIAN LAND ELIGIBLE FOR**
4 **GAMING.**

5 (a) **SHORT TITLE.**—This section may be cited as the
6 “Limitation of Tribal Gambling to Existing Tribal Lands
7 Act of 2005”.



1 (b) REPEAL OF CERTAIN EXCEPTIONS.—Section
2 20(b)(1) of the Indian Gaming Regulatory Act (25 U.S.C.
3 2719(b)(1)) is amended—

4 (1) by striking subparagraph (B);

5 (2) in subparagraph (A) by striking “; or” and
6 inserting a period; and

7 (3) by striking “Subsection (a) of this section”
8 and all that follows through “(A) the Secretary” and
9 inserting “Subsection (a) of this section will not
10 apply when the Secretary”.

11 (c) APPROVAL OF STATE LEGISLATURE.—Section
12 20(b)(1)(A) of the Indian Gaming Regulatory Act (25
13 U.S.C. 2719(b)(1)(A)) is amended by striking “only if the
14 Governor” and inserting “only if the Governor and the leg-
15 islature”.

16 (d) APPLICABILITY.—The amendments made by this
17 section shall take effect on the date of the enactment of
18 this Act. Such amendments shall not apply to lands regu-
19 lated, on the date of the enactment of this Act, by a valid
20 Tribal-State compact that was entered into under the In-
21 dian Gaming Regulatory Act before the date of the enact-
22 ment of this Act.

